Part II begins on page 7819

Pages 7779–7871

PART I

FEDERAL REGISTER

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934 LITTERA SCRIPTA MANET

VOLUME 25 NUMBER 159

Washington, Tuesday, August 16, 1960

Contents

(*Continued on next page*)

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1960 C.C.C. Grain Price Support Bulletin 1, Supp. 2, Wheat]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1960-Crop Wheat Loan and Purchase Agreement Program

Correction

In F.R. Doc. 60-7290, appearing at page 7479 of the issue for Tuesday, August 9, 1960, the following corrections are made:

1. In § 421.5047(b)(1), the first occurrence of the word "county" in the second sentence should read "country", so that the sentence begins with "Both farm-storage and country warehouse-storage loans,".

2. In the tabular material under § 421.5047(b)(2):

a. The rate for Gem County, Idaho, should read "1.63" instead of "1.59".

b. The rate for St. Clair County, Mo., should read "1.88" instead of "1.98".

c. In the list of counties under Tennessee, "Johnson", with a rate per bushel of "1.98", should be inserted in proper alphabetical order.

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

SUBCHAPTER D—WAREHOUSE REGULATIONS

PART 102—GRAIN WAREHOUSES

Miscellaneous Amendments

On June 21, 1960, there was published in the FEDERAL REGISTER (25 F.R. 5581) a notice of proposed amendments of the regulations relating to grain warehouses (7 CFR Part 102) under the United States Warehouse Act, as amended (7 U.S.C. 241 et seq.). After due consideration of all relevant matters presented and under authority of section 28 of said Act (7 U.S.C. 268), said regulations are hereby amended as follows:

1. Section 102.18(b) is amended to read:

(b) Every receipt, whether negotiable or nonnegotiable, issued for grain stored in a warehouse shall specify a period, not exceeding one year, for which the grain is accepted for storage under the Act and the regulations in this part. Upon demand for issuance of a new receipt, surrender of the old receipt by the lawful holder thereof at or before the expiration of the period specified therein and an offer to satisfy the warehouseman's lien, the warehouseman, upon such lawful terms and conditions as may be granted by him to other depositors of grain in his warehouse, shall, in the absence of some lawful excuse, issue a new receipt for a further specified period, not exceeding one year.

2. Section 102.51 is amended to read:

§ 102.51 Stocks to be in balance by grades.

Warehousemen must keep stocks of grain in storage by grades in balance with the grades of grain represented by outstanding storage obligations for which receipts have been or are to be issued, except when the grain has unavoidably improved or deteriorated through natural causes. In case the grades of stored grain should get out of balance with grades represented by outstanding storage obligations for which receipts have been or are to be issued, the warehouseman shall effect proper adjustments.

The present § 102.18(b) of the regulations for grain warehouses under the United States Warehouse Act provides for reissuance of warehouse receipts on a permissive basis, provided it is actually determined by a licensed inspector that the grain has not deteriorated and that it is in proper condition for storage for another year. Since almost all grain is stored in bulk on a comingled, fungible basis, rather than identity preserved, the provision for determining that "the grain" represented by a particular receipt is in proper condition for continued storage and has not deteriorated is virtually impossible to observe. The new requirements for reissuance of receipts provide that the depositor must offer to satisfy the warehouseman's lien when demanding the issuance of a new receipt, and that the warehouseman, in the absence of some lawful excuse, shall, upon demand, issue a new receipt for a further specified period not exceeding one year. The object is to assure uniformity in the handling of requests for reissuance of receipts.

The present § 102.51 of the regulations provides that warehousemen must keep stocks of grain in storage by grades in balance with the grades of grain represented by outstanding receipts. At times, particularly during the harvest period, warehousemen have outstanding storage obligations for which receipts are to be, but for cogent reasons have not been, issued. The amendment is intended to clarify the meaning of this section and remove any doubt that such storage obligations are covered thereby.

The foregoing amendments shall become effective on September 16, 1960.

Done at Washington, D.C., this 11th day of August 1960.

GEORGE A. DICE,
Director, Special Services Division Agricultural Marketing Service.

[F.R. Doc. 60-7650; Filed, Aug. 15, 1960; 8:50 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Tokay Grape Order 1]

PART 951—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Limitation of Shipments

§ 951.325 Tokay Grape Order 1.

(a) *Findings.* 1. Pursuant to the marketing agreement, as amended, and Order No. 51, as amended (7 CFR Part 951), regulating the handling of Tokay grapes grown in San Joaquin County, California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Tokay grapes, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001-1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 17, 1960. A reasonable determination as to the supply of, and the demand for, Tokay grapes must await the development of the crop and adequate information thereon was not available to the Industry Committee until August 8, 1960; recommendation as to the need for, and the extent of, limitation of shipments was made at the meeting of said committee on August 8, 1960, after consideration of all available information relative to the supply and demand conditions for such grapes, at which time the recommendations and information were transmitted to the De-

partment, and made available to growers and handlers; shipments of the current crop of such grapes are expected to begin on or about August 17, 1960, and this section should be applicable to all shipments of such grapes in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) *Order.* 1. During the period beginning at 12:01 a.m., P.s.t., August 17, 1960, and ending at 12:01 a.m., P.s.t., January 1, 1961, no shipper shall ship:

(i) Any Tokay grapes, grown in the production area, unless such grapes are mature and, when tested in accordance with the applicable provisions of section 802 of the Agricultural Code of California, the juice thereof contains soluble solids equal to or in excess of twenty-seven (27) parts to one (1) part of acid.

2. *Definitions.* As used herein, "handler," "shipper," "ship," and "production area," shall have the same meaning as when used in the amended marketing agreement and order, and "mature" shall have the same meaning as when used in the United States Standards for Table Grapes (§§ 51.880-51.911 of this title).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 12, 1960.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-7682; Filed, Aug. 15, 1960; 9:22 a.m.]

[Lemon Reg. 858, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 953.965 (Lemon Regulation 858; 25 F.R. 7429) are hereby amended to read as follows:

(ii) District 2: 395,250 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 11, 1960.

FLOYD F. HEDLUND,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-7633; Filed, Aug. 15, 1960; 8:48 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 214—NONIMMIGRANT CLASSES

PART 282—PRINTING OF REENTRY PERMITS; FORMS FOR SALE TO PUBLIC

PART 299—IMMIGRATION FORMS

Miscellaneous Amendments

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

§ 214.2 [Amendment]

1. The first sentence of paragraph (k) *Mexican agricultural workers* of § 214.2 *Special requirements for admission, extension, and maintenance of status* is amended by adding the words "on Form AR-4" between the words "fingerprinting" and "be".

2. Section 282.2 is amended to read as follows:

§ 282.2 Forms printed by the Public Printer.

The Public Printer is authorized to print for sale to the public by the Superintendent of Documents the following forms prescribed by Subchapter B of this chapter: I-20, I-21, I-94, I-95, I-129B, I-130, I-131, and I-418.

§ 299.1 [Amendment]

3. The list of forms in § 299.1 *Prescribed forms* is amended in the following respects:

a. The following form and reference thereto is added in numerical sequence:

Form No.	*Title and description*
AR-4	Fingerprint chart.

b. The following form and reference thereto is deleted:

Form No.	*Title and description*
I-131A	Instructions for Executing Application for Permit to Reenter the United States.

4. Section 299.2 is amended to read as follows:

§ 299.2 Forms available from the Superintendent of Documents.

The following forms required for compliance with the provisions of Subchapter B of this chapter may be obtained, upon prepayment, from the Superintendent of Documents, Government Printing Office, Washington, D.C.: I-20, I-21, I-94, I-95, I-129B, I-130, I-131, and I-418. A small supply of those forms shall be set aside by immigration officers for free distribution and official use.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rules prescribed by the order relate to agency procedure and management.

Dated: August 10, 1960.

J. M. SWING,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 60-7634; Filed, Aug. 15, 1960; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. J]

PART 210—CHECK CLEARING AND COLLECTION

Promulgation of Rules by Federal Reserve Banks

1. Effective August 10, 1960, § 210.6 is amended to read as follows:

§ 210.6 Other rules and regulations.

Each Federal Reserve bank may also promulgate rules not inconsistent with the terms of the law or of this regulation, governing the details of its operations in clearing and collecting checks and other cash items. Such rules may, among other things, prescribe the types of checks and other items that will be received as cash items under this regulation, classify cash items, require separate sorts and cash letters, and provide different closing times for the receipt of different types or classes of cash items. Such rules shall be set forth by the Federal Reserve bank in its letters of instruction to its member and nonmember clearing banks and shall be binding upon any member or nonmember clearing bank which sends any check or other cash item to such Federal Reserve bank for collection or to any other Federal Reserve bank for the account of such Federal Reserve bank for collection.

2a. The purpose of this amendment is to make it clear that the Reserve Banks may not be able to avoid the need for separate sorts and different closing times for checks handled as cash items that are not suitable for processing on the high-speed document handling equipment which is being used increasingly for handling checks.

b. The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with this Amendment for the reasons and good cause found as stated in paragraph (e) of § 262.2 of the Board's rules of procedure (Part 262 of this chapter); and specifically because in connection with this amendment such procedures are unnecessary as they would not aid the persons affected and would serve no other useful purpose.

(Sec. 11(i), 38 Stat. 262; 12 U.S.C. 248(i). Interpret or apply secs. 13, 16, 38 Stat. 263, 265, as amended; 12 U.S.C. 248(o), 342, 360)

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 60-7625; Filed, Aug. 15, 1960; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 477; Amdt. 190]

PART 507—AIRWORTHINESS DIRECTIVES

Hiller UH-12D and UH-12E Helicopters

A fatigue failure has occurred in the main rotor blade spar of a Hiller UH-12E helicopter after 800 hours of operation. The crack had progressed through 95 percent of the spar. Since complete failure of the spar would result in loss of the blade with serious results, it is necessary that inspections be accomplished within the next ten hours' time in service and daily thereafter, with removal from service of blades found with cracks or separation.

In the interest of safety it has been found that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

HILLER. Applies to all UH-12D and UH-12E helicopters.

Compliance required as indicated.

Due to fatigue cracking of a UH-12E metal main rotor blade, Parsons P/N 2253-1101-03, the following inspections shall be conducted within the next 10 hours' time in service and daily thereafter:

Perform visual inspection on all main rotor blades, P/N 2253-1101-03, with 250 or more hours' time in service. Inspect both the top and bottom surfaces of each blade in the area at the outboard end of the brazed steel leading edge spar root doubler (approximately 27 inches from the blade root end), for doubler separation or signs of cracks in the leading edge spar near the end of the doubler. To properly inspect the bottom side of the blade for cracks, the tip of the blade should be supported. Blades with cracks or separation in the areas described must be removed from service prior to further flight.

(Hiller Service Information Letter No. 3007 covers this subject.)

This amendment shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on August 10, 1960.

OSCAR BAKKE,
Director, Bureau of Flight Standards.

[F.R. Doc. 60-7618; Filed, Aug. 15, 1960; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60-AN-6]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification of Control Zone

On June 3, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 4921) stating that the Federal Aviation Agency proposed to modify the Cordova, Alaska, control zone by reducing the width and increasing the length of the southeast and southwest extensions.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, § 601.2239 (14 CFR, 601.2239) is amended to read:

§ 601.2239 Cordova, Alaska, control zone.

Within a 5-mile radius of the geographical center of the Cordova (Mile 13) Airport (Lat. 60°29′25″ N., Long. 145°29′00″ W.), within 2 miles either side of the SE course of the Cordova RR extending from the 5-mile radius zone to the INT of the SE course of the Cordova RR and the E course of the Hinchinbrook, Alaska, RR, and within 2 miles either side of the SW course of the Cordova RR extending from the 5-mile radius zone to the INT of the SW course of the Cordova RR and the E course of the Hinchinbrook RR.

This amendment shall become effective 0001 e.s.t., October 20, 1960.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on August 9, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-7619; Filed, Aug. 15, 1960; 8:46 a.m.]

[Airspace Docket No. 60-WA-126]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Revocation of Coded Jet Routes

On May 24, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 4558) stating that the Federal Aviation Agency proposed the following actions relating to L/MF jet routes:

A. Revocation of the following L/MF jet routes in their entirety:

Jet Route 3-L from Oceanside, Calif., to Spokane, Wash.
Jet Route 4-L from Los Angeles, Calif., to Florence, S.C.
Jet Route 5-L from Los Angeles, Calif., to Seattle, Wash.
Jet Route 7-L from Oakland, Calif., to Red Bluff, Calif., and from Boise, Idaho, to Great Falls, Mont.
Jet Route 11-L from Phoenix, Ariz., to Prescott, Ariz.
Jet Route 13-L from El Paso, Tex., to Great Falls, Mont.
Jet Route 15-L from Wink, Tex., to Albuquerque, N. Mex., and from Salt Lake City, Utah, to Boise, Idaho.
Jet Route 16-L from Portland, Oreg., to Selfridge, Mich., and from Buffalo, N.Y., to Boston, Mass.
Jet Route 17-L from San Antonio, Tex., to Rapid City, S. Dak.
Jet Route 19-L from Garden City, Kans., to Omaha, Nebr.
Jet Route 24-L from Gila Bend, Ariz., to Garden City, Kans., and from Indianapolis, Ind., to Norfolk, Va.
Jet Route 25-L from San Antonio, Tex., to Tulsa, Okla.
Jet Route 28-L from Pueblo, Colo., to Wichita, Kans.
Jet Route 30-L from Sioux Falls, S. Dak., to Washington, D.C.
Jet Route 31-L from Amarillo, Tex., to Pueblo, Colo.
Jet Route 32-L from Elko, Nev., to Duluth, Minn.
Jet Route 33-L from Lake Charles, La., to Minneapolis, Minn.
Jet Route 36-L from Fargo, N. Dak., to Selfridge, Mich.
Jet Route 38-L from Philipsburg, Pa., to New York, N.Y.
Jet Route 42-L from Dallas, Tex., to Norfolk, Va.
Jet Route 43-L from Key West, Fla., to Dayton, Ohio.
Jet Route 44-L from Las Vegas, Nev., to Prescott, Ariz.
Jet Route 46-L from Tampa, Fla., to West Palm Beach, Fla.
Jet Route 47-L from Charleston, S.C., to Dayton, Ohio.

Jet Route 49-L from Morgantown, W. Va., to Presque Isle, Maine.
Jet Route 51-L from Jacksonville, Fla., to Raleigh, N.C.
Jet Route 52-L from Birmingham, Ala., to Florence, S.C.
Jet Route 55-L from Key West, Fla., to Boston, Mass.
Jet Route 57-L from Greensboro, N.C., to Columbus, Ohio, and from Selfridge, Mich., to Sault Ste. Marie, Mich.
Jet Route 58-L from Sacramento, Calif., to Enterprise, Utah.
Jet Route 59-L from Philipsburg, Pa., to Syracuse, N.Y.
Jet Route 61-L from Baltimore, Md., to Buffalo, N.Y.
Jet Route 63-L from New York, N.Y., to Syracuse, N.Y.

B. Revocation of the following segments of L/MF jet routes:

Jet Route 10-L from Philipsburg, Pa., to New York, N.Y.
Jet Route 12-L from Pittsburgh, Pa., to Baltimore, Md.
Jet Route 20-L from Crestview, Fla., to Melbourne, Fla.
Jet Route 26-L from Kansas City, Mo., to Richmond, Va.
Jet Route 29-L from Dayton, Ohio., to Cleveland, Ohio, and from Buffalo, N.Y., to Presque Isle, Maine.
Jet Route 34-L from Dickinson, N. Dak., to Cleveland, Ohio.
Jet Route 37-L from New Orleans, La., to Biloxi, Miss., and from Albany, N.Y., to Burlington, Vt.

No adverse comments were received regarding the proposed amendments. However, the Department of the Air Force requested that the facilities now used to define these routes continue to be depicted on high altitude charts. These facilities will remain on the high altitude charts.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, the following actions are taken:

1. In Part 602 (14 CFR Part 602) the following sections are revoked: § 602.103 *L/MF jet route No. 3 Oceanside, Calif., to Spokane, Wash.)* (14 CFR 602.103; 25 F.R. 3458); § 602.104 *L/MF jet route No. 4 (Los Angeles, Calif., to Florence, S.C.)*; § 602.105 *L/MF jet route No. 5 (Los Angeles, Calif., to Seattle, Wash.)*; § 602.107 *L/MF jet route No. 7 (Oakland, Calif., to Great Falls, Mont.)*; § 602.111 *L/MF jet route No. 11 (Phoenix, Ariz., to Prescott, Ariz.)*; § 602.112 *L/MF jet route No. 12 (Pittsburgh, Pa., to Baltimore, Md.)* (14 CFR 602.112; 25 F.R. 5692); § 602.113 *L/MF jet route No. 13 (El Paso, Tex., to Great Falls, Mont.)*; § 602.115 *L/MF jet route No. 15 (Wink, Tex., to Boise, Idaho.)*; § 602.16 *L/MF jet route No. 16 (Portland, Oreg., to Boston, Mass.)*; § 602.117 *L/MF jet route No. 17 (San Antonio, Tex., to Rapid City, S. Dak.)* (14 CFR 602.117; 25 F.R. 584); § 602.119 *L/MF jet route No. 19 (Garden City, Kans., to Omaha, Nebr.)*; § 602.124 *L/MF jet route No. 24 (Gila Bend, Ariz., to Norfolk, Va.)*; § 602.125 *L/MF jet route No. 25 (San Antonio, Tex., to Tulsa, Okla.)* (14 CFR 602.125; 25 F.R. 584); § 602.128 *L/MF jet route No. 28 (Pueblo, Colo., to Wichita, Kans.)*; § 602.130 *L/MF jet route No. 30 (Sioux Falls, S. Dak., to Washington, D.C.)*; § 602.131 *L/MF jet route No. 31 (Amarillo, Tex., to Pueblo, Colo.)*; § 602.132 *L/MF jet route No. 32 (Elko, Nev., to Duluth, Minn.)*; § 602.133 *L/MF jet route No. 33 (Lake Charles, La., to Minneapolis, Minn.)*; § 602.136 *L/MF jet route No. 36 (Fargo, N. Dak., to Selfridge, Mich.,)*; § 602.138 *L/MF jet route No. 38 (Philipsburg, Pa., to New York, N.Y.)*; § 602.142 *L/MF jet route No. 42 (Dallas, Tex., to Norfolk, Va.)*; § 602.143 *L/MF jet route No. 43 (Key West, Fla., to Dayton, Ohio)*; § 602.144 *L/MF jet route No. 44 (Las Vegas, Nev., to Prescott, Ariz.)*; § 602.146 *L/MF jet route No. 46 (Tampa, Fla., to West Palm Beach, Fla.)*; § 602.147 *L/MF jet route No. 47 (Charleston, S.C., to Dayton, Ohio)*; § 602.149 *L/MF jet route No. 49 (Morgantown, W. Va., to Presque Isle, Maine)* (14 CFR 602.149; 25 F.R. 2476); § 602.151 *L/MF jet route No. 51 (Jacksonville, Fla., to Raleigh, N.C.)*; § 602.152 *L/MF jet route No. 52 (Birmingham, Ala., to Florence, S.C.)*; § 602.155 *L/MF jet route No. 55 (Key West, Fla., to Boston, Mass.)*; § 602.157 *L/MF jet route No. 57 (Greensboro, N.C., to Sault Ste. Marie, Mich.)*; § 602.158 *L/MF jet route No. 58 (Sacramento, Calif., to Enterprise, Utah)*; § 602.159 *L/MF jet route No. 59 (Philipsburg, Pa., to Syracuse, N.Y.)*; § 602.161 *L/MF jet route No. 61 (Baltimore, Md., to Buffalo, N.Y.)*; § 602.163 *L/MF jet route No. 63 (New York, N.Y., to Syracuse, N.Y.)*.

2. Section 602.110 (25 F.R. 3708, 5438) is amended to read:

§ 602.110 L/MF jet route No. 10 (Kansas City, Mo., to Philipsburg, Pa.).

From the Kansas City, Mo., RR via the St. Louis, Mo., RR; Effingham, Ill., RR; Indianapolis, Ind., RR; Dayton, Ohio (Wright-Patterson), RR; Columbus, Ohio, RR; Pittsburgh, Pa., RR to the Philipsburg, Pa., RR.

3. In § 602.120 (14 CFR 602.120) the following changes are made:

(a) In the caption "*(Seattle, Wash., to Melbourne, Fla.)*." is deleted and "*(Seattle, Wash., to Crestview, Fla.)*." is substituted therefor.

(b) In the text "Crestview, Fla., RR; INT Dotham, Ga., RR southeast course and Tallahassee RR northwest course; Tallahassee, Fla., RR; Orlando, Fla., RR to the Melbourne, Fla., RR" is deleted and "to the Crestview, Fla., RR" is substituted therefor.

4. Section 602.126 (14 CFR 602.126) is amended to read:

§ 602.126 L/MF jet route No. 26 (El Paso, Tex., to Kansas City, Mo., and Richmond, Va., to Norfolk, Va.).

From the El Paso, Tex., RR via the INT of the El Paso RR east course and Roswell RR southwest course; Roswell, N. Mex., RR; Amarillo, Tex., RR; Wichita, Kans., RR; to the Kansas City, Mo., RR. From the Richmond, Va., RR to the Norfolk, Va. (Langley), RR.

5. Section 602.129 (14 CFR 602.129) is amended to read:

§ 602.129 L/MF jet route No. 29 (Alice, Tex., to Memphis, Tenn.).

From the Alice, Tex., RR via the Palacios, Tex., RR, Houston, Tex., RR; Lufkin, Tex., RBN; Shreveport, La., RR to the Memphis, Tenn., RR.

6. Section 602.134 (14 CFR, 602.134) is amended to read:

§ 602.134 L/MF jet route No. 34 (Cleveland, Ohio, to Baltimore, Md.).

From the Cleveland, Ohio RR; via the Pittsburgh, Pa., RR to the Baltimore, Md., RR.

7. Section 602.137 (14 CFR, 602.137, 24 F.R. 9843) is amended to read:

§ 602.137 L/MF jet route No. 37 (Biloxi, Miss., to Albany, N.Y.).

From the Biloxi, Miss. (Keesler AFB) RR via the Montgomery, Ala. (Maxwell AFB), RR; Atlanta, Ga., RR; Spartanburg, S.C., RR; Richmond, Va., RR; Tappahannock, Va., RR; INT of Tappahannock RR NE course and Washington (Andrews AFB), RR SE course; Washington, D.C. (Andrews AFB), RR; Washington, D.C., RR; Baltimore, Md., RR; Allentown, Pa., RR to the Albany, N.Y., RR.

These amendments shall become effective 0001 e.s.t., October 20, 1960.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on August 10, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-7620; Filed, Aug. 15, 1960; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 121—FOOD ADDITIVES

Subpart A—Definitions and Procedural and Interpretative Regulations

REPLACING TRADE NAMES WITH CHEMICAL NAMES

Correction

In F.R. Doc. 60-7533, appearing at page 7677 of the issue for Friday, August 12, 1960, the word "monoethyl" in the last entry under item 2 should read "monomethyl", so that the line reads "Ethylene glycol monomethyl ether.".

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER H—ECONOMIC ENTERPRISES

PART 89—COMMERCIAL FISHING ON RED LAKE INDIAN RESERVATION

On page 4750 of the FEDERAL REGISTER of May 28, 1960, there was published a Notice of Intention to amend Part 89 of Title 25, Code of Federal Regulations. The purpose of this amendment is to revise the regulations in regard to commercial fishing on the Red Lake Indian Reservation, Minnesota. The principal revisions in the regulations include application of a maximum annual quota to walleye pike, the main species, rather than to all game fish; and prohibits the taking of walleye and northern pike during their spawning season except for propagation purposes. The remaining revisions are primarily for the purpose of clarification and to eliminate functions of the Red Lake Fsheries Association from the regulations.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed amendment. No comments, suggestions or objections have been received and the proposed amendment is hereby adopted without change as set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

AUTHORITY: §§ 89.1 to 89.12 issued under 25 U.S.C. 2, 5 U.S.C. 22.

§ 89.1 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Council" means the General Council of the Red Lake Band of the Chippewa Indians as recognized by the Secretary of the Interior.

(c) "Association" means the Red Lake Fisheries Association, incorporated under the laws of the State of Minnesota, and whose articles of incorporation and by-laws and any amendments thereto have been approved by the Council and the Secretary of the Interior.

(d) "Member of Association" means as defined in the Association By-Laws.

(e) "Commercial Fishing" means the catching of any fish for sale directly or indirectly to others than Indians on the reservations or licensed traders on the reservation for resale to Indians.

§ 89.2 Authority to engage in commercial fishing.

No person shall engage in commercial fishing in the waters of the Red Lakes on the Red Lake Indian Reservation in the State of Minnesota except the Red Lake Fisheries Association, a corporation organized and incorporated under the laws of Minnesota, and its members, and then only in accordance with the regulations in this part. The authority hereby granted to the Association and its members to engage in commercial fishing may, at any time, be cancelled and withdrawn and these regulations may be modified and amended.

§ 89.3 Authority to operate.

The association may conduct commercial fishing operations on the reservation under authority of its articles of incorporation and by-laws only in accordance with the regulations in this part.

§ 89.4 Fishing.

(a) Enrolled members of the Red Lake Band of Chippewa Indians may take fish at any time except as prohibited by § 89.6 from waters of the Red Lakes on the Red Lake Indian Reservation for their own use and for sale to: (1) Other Indians on the reservation and (2) licensed traders on the reservation for resale to Indians.

(b) Fish may be taken for commercial purposes only by the Association through members of the Association in residence on the reservation during the fishing season which shall be May 15 to November 15 inclusive. All fish taken for such purposes shall be marketed through the Association.

(c) In connection with commercial fishing, Association member fishermen may be assisted only by Indians who are members of the Red Lake Band.

§ 89.5 Disposition of unmarketable fish.

All unmarketable live fish taken under authority of these regulations must be returned to the water, and all unmarketable dead fish taken must be buried by the person taking the same.

§ 89.6 Spawning season.

Walleye and northern pike (or pickerel) shall not be taken during their spawning season except for propagation purposes.

§ 89.7 Suspension.

All commercial fishing operations may be suspended by order of the Secretary at any time.

§ 89.8 Penalty.

Any Indian violating the provisions of §§ 89.4 and 89.6 shall forfeit his right to take fish for any purpose for a period of three months.

§ 89.9 Quotas.

The Secretary may set such commercial quotas as he may find desirable, based on available biological and other information, on the amount of fish which may be taken under authority of the regulations in this part in any one season. Until otherwise determined by the Secretary, not more than 650,000 pounds of walleyes may be taken in any one fishing season.

§ 89.10 Fishing equipment limitations.

(a) Any variety of fish may be taken by enrolled members of the Band from any waters on the reservation by hook and line, and from Upper and Lower Red Lakes by gill net or entrapment gear for noncommercial use only.

(b) For commercial fishing each member of the Association shall be limited to eight gill nets of 300 feet in length and six feet in depth, of which not to exceed six of such nets may be of nylon and other synthetic material.

(c) Gill nets for taking pike shall have a mesh of not less than 3½ inches extension measure.

(d) Gill nets for taking white fish shall have a mesh of not less than 5½ inches extension measure.

(e) Entrapment gear may only be used by members of the Association for taking fish of any variety for commercial purposes or propagation, in accordance with such specifications and directions as the manager of the Association may provide.

(f) All nets used in Red Lake Reservation waters must be marked with appropriate tags to be furnished by the Association.

§ 89.11 Royalty.

The Association shall pay five percent of the gross receipts from the sale of fish by the Association to the designated collection officer of the Bureau of Indian Affairs, which shall be deposited to the credit of the Band in the Treasury of the United States.

§ 89.12 Authority to lease.

The Band, with the approval of the Secretary, may execute a lease or permit on its fisheries plant and hatchery at Redby, Minnesota, to the Association.

FRED A. SEATON,
Secretary of the Interior.

AUGUST 9, 1960.

[F.R. Doc. 60-7627; Filed, Aug. 15, 1960; 8:47 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER G—REGULATIONS UNDER TAX CONVENTIONS

[T.D. 6489]

PART 510—NORWAY

Release of excess tax withheld, and exemption from, or reduction in rate of, withholding of United States tax at source in the case of residents of Norway and of Norwegian corporations or other entities, as affected by the income tax convention between the United States and Norway of June 13, 1949, as amended.

AUTHORITY: §§ 510.1 to 510.11 issued under sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805; Article XXI of the convention.

§ 510.1 **Text of convention.**

(a) *Pertinent articles.* The income tax convention between the United States and Norway of June 13, 1949, as modified and supplemented by the convention of July 10, 1958, referred to in §§ 510.1 to 510.11 as the convention, provides as follows:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income tax, including surtaxes.

(b) In the case of Norway: The National and the communal income taxes, including the old age pension tax, the war pension tax, the tax on bank deposits and the seamen's tax.

(2) The present Convention shall also apply to any other income taxes of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term "United States" means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term "Norway" means the Kingdom of Norway; the provisions of the Convention shall not, however, extend to Svalbard and Jan Mayen, nor do they apply to the Norwegian dependencies outside Europe.

(c) The term "permanent establishment" means a branch office, factory, workshop, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a bona fide commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(d) The term "enterprise of one of the contracting States" means, as the case may be, "United States enterprise" or "Norwegian enterprise".

(e) The term "enterprise" includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

(f) The term "United States enterprise" means an enterprise carried on in the United States by a resident of the United States or by a United States corporation or other entity; the term "United States corporation or other entity" means a partnership, corporation or other entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States.

(g) The term "Norwegian enterprise" means an enterprise carried on in Norway by a resident of Norway or by a Norwegian corporation or other entity; the term "Norwegian corporation or other entity" means a partnership, corporation or other entity created or organized in Norway or under Norwegian laws.

(h) The term "competent authorities" means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representative; and in the case of Norway, the Ministry of Finance and Customs.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own tax laws.

ARTICLE III

(1) An enterprise of one of the contracting States shall not be subject to taxation in the other contracting State in respect of its industrial and commercial profits unless it is engaged in trade or business in such other State through a permanent establishment situated therein. If it is so engaged such other State may impose its tax upon such profits of the enterprise from sources within such other State.

(2) In determining the industrial or commercial profits from sources within the territory of one of the contracting States of an enterprise of the other contracting State, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the territory of the former contracting State by such enterprise.

(3) Where an enterprise of one of the contracting States is engaged in trade or business in the territory of the other contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment and the profits so attributed shall, subject to the law of such other contracting State, be deemed to be income from sources within the territory of such other contracting State.

(4) The competent authorities of the two contracting States may lay down rules by agreement for the apportionment of industrial and commercial profits.

ARTICLE IV

Where an enterprise of one of the contracting States, by reason of its participation in the management or the financial structure of an enterprise of the other contracting State, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

(1) Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft shall be exempt from taxation in the other contracting State.

(2) The provisions of this Article shall be deemed to suspend the arrangement between the United States and Norway providing for relief from double income taxation on shipping profits, effected by exchanges of notes dated November 26, 1924, January 23, 1925, and March 24, 1925.[1]

[1] Executive Agreement Series 15; 47 Stat. 2617.

ARTICLE VI

Interest on bonds, securities, notes, debentures, or on any other form of indebtedness derived from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

ARTICLE VI-A

(1) The rate of United States tax on dividends received from a United States corporation by a resident or corporation or other entity of Norway, not engaged in trade or business in the United States through a permanent establishment therein at any time during the taxable year, shall not exceed 15 percent. The rate shall, however, not exceed 5 percent in the case of such dividends received by a Norwegian corporation if (a) during the part of the United States corporation's taxable year preceding the payment of the dividend and during the whole of the prior taxable year, such Norwegian corporation either alone or in association with not more than three other Norwegian corporations owned more than 50 percent of the voting stock of the United States corporation, provided each Norwegian corporation owned at least 10 percent of the voting stock of the United States corporation, and (b) not more than 25 percent of the gross income of the United States corporation for the taxable year immediately preceding the payment of the dividend is derived from interest and dividends other than interest and dividends received from its subsidiary corporations.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis, in the case of dividends received from a Norwegian corporation by a resident or corporation or other entity of the United States.

(3) Dividends paid by a Norwegian corporation shall be exempt from United States tax except where the recipient is a citizen, resident or corporation of the United States.

(4) Dividends paid by a United States corporation shall be exempt from Norwegian tax except where the recipient is a resident or corporation of Norway.

ARTICLE VII

Royalties and other amounts derived, as consideration for the right to use copyrights, artistic and scientific works, patents, designs, secret processes and formulas, trade-marks and other like property (including rentals and like payments in respect of motion picture films), from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State: *Provided*, That each of the contracting States reserves the right according to the principles of Article IV to deny a deduction to the payor thereof for such royalty or any portion thereof as is not considered by the revenue authorities of such State to be reasonable consideration for the right to use the property referred to in this Article.

ARTICLE VIII

(1) Income from real property (not including interest derived from mortgages and bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) A resident or corporation of one of the contracting States deriving any such income from sources within the other contracting State may, for any taxable year, elect to be subject to the tax of such other

contracting State, on a net basis, as if such resident or corporation were engaged in trade or business within such other contracting State through a permanent establishment therein during such taxable year.

ARTICLE IX

Gains derived from the sale or exchange of real property shall be taxable only in the contracting State in which such property is situated.

ARTICLE X

(1) A resident of Norway shall be exempt from United States tax upon compensation for labor or personal services (including the practice of the liberal and artistic professions) if he is temporarily present in the United States for a period or periods not exceeding a total of 183 days during the taxable year and either of the following conditions is met:

(a) his compensation is received for labor or personal services performed as an employee, or under contract with, a resident, or corporation or other entity of Norway, or

(b) his compensation received for labor or personal services does not exceed $10,000.

(2) The provisions of paragraph (1) of this Article shall apply mutatis mutandis, to a resident of the United States with respect to compensation for such labor or personal services performed in Norway.

(3) The provisions of paragraphs (1) and (2) of this Article shall have application to directors' fees representing reasonable compensation for services rendered whether or not the recepient of such fees has been present at any time during the taxable year in the contracting State from which payment of such fees has been made.

(4) The provisions of this Article shall have no application to the income to which Article XI (1) relates.

ARTICLE XI

(1) (a) Wages, salaries and similar compensation, and pensions paid by the United States or by the political subdivisions or territories thereof to an individual (other than a Norweigan citizen who is not also a citizen of the United States) shall be exempt from Norweigan tax.

(b) Wages, salaries and similar compensation, and pensions paid either directly by, or from funds or institutions created by, Norway or Norwegian communities or counties (fylker) to an individual (other than a United States citizen who is not also a citizen of Norway) shall be exempt from United States tax.

(2) Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contractng State shall be exempt from taxation in the former State.

(3) The term "pensions", as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term "life annuities" as used in this Article means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XII

A professor or teacher, a resident of one of the contracting States, who temporarily visits the other contracting State for the purpose of teaching for a period not exceeding two years at a university, college, school or other educational institution in the other contracting State, shall be exempted in such other contracting State from tax on his remuneration for such teaching for such period.

ARTICLE XIII

A student or apprentice, a resident of one of the contracting States, who temporarily visits the other contracting State exclusively for the purposes of study or for acquiring business or technical experience shall not be taxable in the latter State in respect of remittances received by him from abroad for the purposes of his maintenance or studies.

ARTICLE XIV

(1) It is agreed that double taxation shall be avoided in the following manner:

(a) The United States in determining its taxes specified in Article I of this Convention in the case of its citizens, residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of the United States as if this Convention had not come into effect. The United States shall, however, subject to the provisions of section 131, Internal Revenue Code, as in effect on the date of the entry into force of this Convention, deduct from its taxes the amount of Norwegian taxes specified in Article I of this Convention.

(b) Norway in determining its taxes specified in Article I of this Convention in the case of its residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of Norway as if the Convention had not come into effect. Norway shall, however, deduct from the taxes so calculated that portion of such tax liability which the taxpayer's income from sources in the United States (not exempt from United States tax under this Convention) bears to his entire income. The competent authority of Norway may, however, decide that the deduction shall not exceed the United States tax on income taxable in the United States.

(2) The provisions of this Article shall not be construed to deny the exemptions from United States tax or Norwegian tax, as the case may be, granted by Article XI (1) of this Convention.

ARTICLE XV

With a view to the more effective imposition of the taxes to which the present Convention relates, each of the contracting States undertakes, subject to reciprocity, to furnish such information in the matter of taxation, which the authorities of the State concerned have at their disposal or are in a position to obtain under their own law, as may be of use to the authorities of the other State in the assessment of the taxes in question and to lend assistance in the service of documents in connection therewith. Any information so exchanged shall be treated as secret and shall only be disclosed to persons (including a court) concerned with the assessment, determination and collection of the taxes which are the subject of the present Convention, or the determination of appeals in relation thereto. No information shall be exchanged which would disclose a trade, business, industrial or professional secret. Information and correspondence relating to the subject matter of this Article shall be exchanged between the competent authorities of the contracting States in the ordinary course or on request.

ARTICLE XVI

In accordance with the preceding Article and insofar as may be found to be practicable, the competent authorities of each contracting State shall forward to the competent authorities of the other contracting State as soon as practicable after the close of each calendar year the following information relating to such calendar year:

The names and addresses of all addressees within such other State deriving from sources within the former State dividends, interest, royalties, pensions, annuities, wages, salares, rents, or other fixed or determinable annual or periodical income, showing the amount of such income with respect to each addressee.

ARTICLE XVII

(1) The contracting States undertake to lend assistance and support to each other in the collection of the taxes which are the subject of the present Convention, together with interest, costs, and additions to the taxes.

(2) In the case of applications for enforcement of taxes, revenue claims of each of the contracting States which have been finally determined may be accepted for enforcement by the other contracting State and may be collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

(3) Any application shall include a certification that under the laws of the State making the application the taxes have been finally determined.

(4) The assistance provided for in this Article shall not be accorded with respect to the citizens, corporations, or other entities of the State to which application is made.

["It is understood that the application of Article XVII of the convention shall be confined and limited as granting authority to each Contracting State to collect only such taxes imposed by the other Contracting State as will insure that the exemption or reduced rate of tax granted under the present convention by such other State, shall not be enjoyed by persons not entitled to such benefits." Protocol of Exchange signed December 11, 1951, 2 UST 2351].

ARTICLE XVIII

The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it except that such State may refuse to comply with the request for reasons of public policy or if compliance would involve violation of a trade, business, industrial or professional secret.

ARTICLE XIX

Where a taxpayer shows proof that the action of the revenue authorities of the contracting States has resulted, or will result, in double taxation contrary to the provisions of the present Convention, he shall be entitled to lodge a claim with the State of which he is a citizen or, if he is not a citizen of either of the contracting States, with the State of which he is a resident, or, if the taxpayer is a corporation or other entity, with the State in which it is created or organized. Should the claim be upheld, the competent authority of such State shall undertake to come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

ARTICLE XX

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

ARTICLE XXI

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States. With respect to the provisions of this Convention relating to exchange of information, service of documents, and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, costs of collection, minimum amounts subject to collection and related matters.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XXII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible. It shall have effect for the taxable years beginning on or after the first day of January of the year in which such exchange takes place.

(2) The present Convention shall continue effective for a period of five years and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

(b) *Meaning of terms.* As used in §§ 510.1 to 510.11, any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

§ 510.2 Interest.

(a) *Exemption from United States tax*—(1) *Requirements for obtaining exemption.* Interest on bonds, securities, notes, debentures, or on any other form of indebtedness, including interest on obligations of the United States and its instrumentalities and on mortgages and bonds secured by real property, which is derived from sources within the United States in a taxable year beginning on or after January 1, 1960, by a nonresident alien individual who is a resident of Norway, or by a Norwegian corporation or other entity, shall be exempt from United States tax under the provisions of Article VI of the convention if such alien, corporation, or other entity does not have a permanent establishment in the United States at any time during the taxable year in which the interest is derived.

(2) *Personal services.* If a nonresident alien individual who is a resident of Norway were to perform personal services within the United States during the taxable year but not to have a permanent establishment in the United States at any time during the year, he would be entitled to the exemption from United States tax with respect to interest granted by Article VI of the convention even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he had engaged in trade or business within the United States during that year by reason of his having performed personal services therein.

(b) *Exemption from withholding of United States tax*—(1) *Coupon bond interest*—(i) *Form to use.* To avoid withholding of United States tax at source on or after January 1, 1960, in the case of coupon bond interest to which paragraph (a) of this section applies, the nonresident alien individual who is a resident of Norway, or the Norwegian corporation or other entity, shall, for each issue of bonds, file Form 1001-NO in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, or by his trustee or agent, and shall show the information required by § 1.1461-1(d) of the Income Tax Regulations (26 CFR 1.1461-1(d)). Form 1001-NO shall contain a statement that the owner (*a*) is a resident of Norway, or is a Norwegian corporation or other entity, and (*b*) has no permanent establishment in the United States.

(ii) *Exemption applicable only to owner.* The exemption from United States tax granted by Article VI of the convention is applicable only to the owner of the interest. The person presenting the interest coupon, or on whose behalf it is presented, shall, for the purpose of the exemption from withholding of United States tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001-NO, shall be executed.

(iii) *Disposition of Form 1001-NO.* The original and duplicate of Form 1001-NO shall be forwarded by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington 25, D.C., in accordance with § 1.1461-2(b)(2) of the Income Tax Regulations (26 CFR 1.1461-2(b)(2)).

(2) *Interest on noncoupon bonds*—(i) *Use of letter of notification.* To avoid withholding of United States tax at source on or after January 1, 1960, in the case of interest (other than coupon bond interest) to which paragraph (a) of this section applies, the nonresident alien individual who is a resident of Norway, or the Norwegian corporation or other entity, shall notify the withholding agent by letter in duplicate that the interest is exempt from United States tax under the provisions of Article VI of the convention. The letter of notification shall be signed by the owner of the interest, or by his trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of the interest. The letter shall contain a statement (*a*) that the owner is neither a citizen nor a resident of the United States but is a resident of Norway, or, in the case of a corporation or other entity, the owner is a Norwegian corporation or other entity, and (*b*), that the owner has not had a permanent establishment in the United States at any time during the current taxable year. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(ii) *Use of letter for release of excess tax withheld.* If the letter of notification is also to be used as authorization for the release, pursuant to § 510.9(a)(3), of excess tax withheld from the interest, it shall also contain a statement (*a*) that, at the time when the interest was derived from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Norway, or, in the case of a corporation or other entity, the owner was a Norwegian corporation or other entity, and (*b*) that the owner did not have a permanent establishment in the United States at any time during the taxable year in which the interest was derived. The dates of the beginning and ending of the taxable year of the taxpayer in which the interest was derived shall also be indicated.

(iii) *Manner of filing letter of notification.* The letter of notification, which shall constitute authorization for the payment of the interest without withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which the interest is paid. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by Article VI of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(iv) *Disposition of the letter of notification.* Each letter of notification filed pursuant to this subparagraph, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington 25, D.C.

§ 510.3 Dividends paid by a Norwegian corporation.

Dividends which are paid by a Norwegian corporation and are received from sources within the United States in a taxable year beginning on or after

January 1, 1960, by a recipient who is not a citizen or resident or corporation of the United States shall be exempt from United States tax under the provisions of Article VI-A of the convention. No withholding of United States tax is required in the case of dividends paid by a Norwegian corporation if, in accordance with the preceding sentence, the dividends are exempt from United States tax.

§ 510.4 Dividends paid by a United States corporation.

(a) *Reduction in rate of United States tax*—(1) *Rate of 15 percent*—(i) *Requirements for obtaining reduced rate.* The rate of United States tax imposed upon dividends received from a domestic corporation in a taxable year beginning on or after January 1, 1960, by a nonresident alien individual who is a resident of Norway, or by a Norwegian corporation or other entity, shall not exceed 15 percent under the provisions of Article VI-A of the convention if such alien, corporation, or other entity has not, at any time during the taxable year in which the dividend is received, engaged in trade or business within the United States through a permanent establishment situated therein. This subparagraph does not apply to dividends falling within the scope of subparagraph (2) of this paragraph.

(ii) *Personal services.* If a nonresident alien individual who is a resident of Norway were to perform personal services within the United States during the taxable year in which a dividend is received from a domestic corporation, but not to have a permanent establishment in the United States at any time during the year, he would be entitled to the 15-percent rate of United States tax granted by Article VI-A of the convention even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he had engaged in trade or business within the United States during that year by reason of his having performed personal services therein.

(2) *Rate of 5 percent*—(i) *Conditions for obtaining reduced rate.* The rate of United States tax imposed upon dividends received from a domestic corporation in a taxable year beginning on or after January 1, 1960, by a Norwegian corporation shall not exceed 5 percent under the provisions of Article VI-A of the convention if—

(*a*) During the part of the domestic corporation's taxable year preceding the payment of the dividend and during the whole of its prior taxable year, the Norwegian corporation, either alone or in association with not more than three other Norwegian corporations, owned more than 50 percent of the voting stock of the domestic corporation; and

(*b*) During such period preceding the payment of the dividend each such Norwegian corporation owned 10 percent or more of the voting stock of the domestic corporation; and

(*c*) Not more than 25 percent of the gross income of the domestic corporation for its taxable year immediately preceding the taxable year in which the dividend is paid was derived from interest and dividends (other than interest and dividends received from its subsidiary corporations, if any); and

(*d*) The Norwegian corporation receiving the dividend has not, at any time during its taxable year in which the dividend is received, engaged in trade or business within the United States through a permanent establishment situated therein.

(ii) *Information to be filed with Commissioner when claiming the reduced rate.* Any domestic corporation which claims or contemplates claiming that dividends paid or to be paid by it on or after January 1, 1960, are subject to United States tax at the rate of 5 percent shall file the following information with the Commissioner of Internal Revenue, Washington 25, D.C., as soon as practicable:

(*a*) The date and place of its organization;

(*b*) The number of outstanding shares of stock of the domestic corporation having voting power and the voting power thereof;

(*c*) The person or persons beneficially owning such stock of the domestic corporation and their relationship to the Norwegian corporation;

(*d*) The amount of the gross income of the domestic corporation for its taxable year immediately preceding the taxable year in which the dividends are paid, of the interest and dividends included in such gross income, and of such interest and dividends received by the domestic corporation from its own subsidiary corporations, if any; and

(*e*) The relationship between the domestic corporation and the Norwegian corporation receiving the dividends.

(iii) *Notification by Commissioner.* As soon as practicable after such information is filed, the Commissioner will determine whether the dividends concerned qualify under Article VI-A of the convention for the reduced rate of 5 percent and will notify the domestic corporation of his determination. If the dividends do qualify for such reduced rate, this notification may also authorize the release, pursuant to § 510.9(a)(1)(ii), of excess tax withheld from the dividends concerned.

(b) *Withholding of tax from dividends*—(1) *Reduced rate of 15 percent*—(i) *Reduction based on address in Norway.* Withholding of United States tax at source on or after January 1, 1960, from dividends received from a domestic corporation by a nonresident alien (including a nonresident alien individual, fiduciary, or partnership) or by a foreign corporation or other entity, whose address is in Norway, shall, to the extent withholding of United States tax is required, be at the reduced rate of 15 percent in every case except that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue has notified the withholding agent that the reduced rate of withholding shall not apply. This subparagraph does not apply to dividends falling within the scope of subparagraph (2) of this paragraph.

(ii) *Effect of address in Norway.* For the purposes of withholding of United States tax pursuant to this subparagraph, every nonresident alien (including a nonresident alien individual, fiduciary, and partnership) whose address is in Norway shall be deemed by United States withholding agents to be a nonresident alien individual who is a resident of Norway not engaged in trade or business in the United States through a permanent establishment situated therein; and every foreign corporation or other entity whose address is in Norway shall be deemed by such withholding agents to be a Norwegian corporation or other entity not engaged in trade or business in the United States through a permanent establishment situated therein.

(iii) *Reduced rate of 15 percent applicable only to owner of capital stock.* This subparagraph is based upon the assumption that the payee of the dividend is the actual owner of the capital stock from which the dividend is derived. As to action by a Norwegian addressee who is not the owner of the capital stock, see § 510.5.

(2) *Reduced rate of 5 percent.* If, in accordance with paragraph (a)(2)(iii) of this section, the Commissioner of Internal Revenue has notified the domestic corporation that the dividends qualify under Article VI-A of the convention for the reduced rate of 5 percent, the reduced withholding rate of 5 percent, to the extent withholding of United States tax is required, shall apply on or after January 1, 1960, to any dividends subsequently paid by such corporation and received by the Norwegian corporation, unless the stock ownership of the domestic corporation, or the character of its income, materially changes. If such a change occurs, the domestic corporation shall promptly notify the Commissioner of Internal Revenue of the then existing facts with respect thereto. The continued application of the reduced withholding rate of 5 percent is also dependent upon the continued fulfillment of the condition contained in paragraph (a)(2)(i)(*d*) of this section.

(3) *Evidence of rate of tax withheld.* The rate at which United States tax has been withheld from any dividend paid at any time after the expiration of the thirtieth day after the date on which §§ 510.1 to 510.11 are published in the FEDERAL REGISTER to any person whose address is in Norway at the time the dividend is paid shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

§ 510.5 Dividends received by Norwegian addressee who is not the owner of the capital stock.

(a) *Additional United States tax to be withheld in Norway*—(1) *By a nominee or representative.* The recipient in Norway of any dividend from which United States tax has been withheld at the reduced rate of 15 percent pursuant to § 510.4(b)(1), who is a nominee or representative through whom the dividend is received by a person other than one described in § 510.4(a)(1) as being entitled to the reduced rate, shall withhold an additional amount of United States tax equivalent to the United States tax which would have been withheld if the convention had not been in effect (30 percent as of the date of approval of §§ 510.1 to 510.11) minus the 15 percent which has been withheld at the source.

(2) *By a fiduciary or partnership.* A fiduciary or a partnership with an address in Norway which receives, otherwise than as a nominee or representative, a dividend from which United States tax has been withheld at the reduced rate of 15 percent pursuant to § 510.4(b)(1) shall withhold an additional amount of United States tax from the portion of the dividend included in the gross income from sources within the United States of any beneficiary or partner, as the case may be, who is not entitled to the reduced rate of tax in accordance with § 510.4(a)(1). The amount of the additional tax is to be calculated in the same manner as under subparagraph (1) of this paragraph.

(3) *Withholding additional United States tax from amounts released.* If any amount of United States tax is released pursuant to § 510.9(a)(1)(i) by the withholding agent in the United States with respect to a dividend received by such a person (nominee, representative, fiduciary, or partnership) with an address in Norway, the recipient shall withhold from such released amount any additional amount of United States tax, otherwise required to be withheld from the dividend by the provisions of subparagraphs (1) and (2) of this paragraph, in the same manner as if at the time of payment of the dividend United States tax at the rate of only 15 percent had been withheld at source therefrom.

(b) *Return of United States tax by Norwegian withholding agents.* The amounts of United States tax withheld pursuant to paragraph (a) of this section by any withholding agent in Norway should be deposited, without converting the amounts into United States dollars, with the Norwegian Ministry of Finance and Customs on or before the 15th day after the close of the quarter of the calendar year in which the withholding in Norway accurs. The withholding agent making the deposit should render therewith such appropriate Norwegian form as may be prescribed by the Ministry of Finance and Customs. The amounts so deposited should be remitted by the Ministry of Finance and Customs by draft in United States dollars, on or before the end of the calendar month in which the deposit is made, to the Director, International Operations Division, Internal Revenue Service, Washington 25, D.C., U.S.A. The remittance should be accompanied by copies of such Norwegian forms as may be required to be rendered by the withholding agent in Norway in connection with the deposit.

§ 510.6 Patent and copyright royalties and film rentals.

(a) *Exemption from United States tax.* Royalties and other amounts derived from sources within the United States in a taxable year beginning on or after January 1, 1960, by a nonresident alien individual who is a resident of Norway, or by a Norwegian corporation or other entity, as consideration for the right to use copyrights, artistic and scientific works, patents, designs, secret processes and formulas, trade-marks, and other like property (including rentals and like payments in respect of motion picture films) shall be exempt from United States tax under the provisions of Article VII of the convention if such alien, corporation, or other entity does not have a permanent establishment in the United States at any time during the taxable year in which such royalties are derived.

(b) *Exemption from withholding of tax*—(1) *Use of letter of notification.* To avoid withholding of United States tax on or after January 1, 1960, from a royalty or other amount which is exempt from United States tax in accordance with paragraph (a) of this section, the nonresident alien individual who is a resident of Norway, or the Norwegian corporation or other entity, shall notify the withholding agent by letter in duplicate that the royalty or other amount is exempt from United States tax under the provisions of Article VII of the convention.

(2) *Manner of filing letter of notification.* The provisions of § 510.2(b)(2) relating to the execution, filing, effective period, and disposition of the letter of notification prescribed therein, including its use for the release of excess tax withheld, shall also apply to the letter of notification prescribed in this paragraph.

§ 510.7 Private pensions and life annuities.

(a) *Exemption from United States tax*—(1) *Requirements for obtaining exemption.* Any private pension or life annuity derived from sources within the United States and paid in a taxable year beginning on or after January 1, 1960, to a nonresident alien individual who is a resident of Norway shall be exempt from United States tax under the provisions of Article XI(2) of the convention.

(2) *Definitions of terms.* As used in this section, the term "pension" means a periodic payment made in consideration for services rendered or by way of compensation for injuries received, and the term "life annuity" means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(b) *Exemption from withholding of tax*—(1) *Use of letter of notification.* To avoid withholding of United States tax on or after January 1, 1960, from pensions or life annuities which are exempt from United States tax in accordance with paragraph (a) of this section, the nonresident alien individual who is a resident of Norway shall notify the withholding agent by letter in duplicate that the pensions or annuities are exempt from United States tax under the provisions of Article XI(2) of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Norway. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(2) *Use of letter for release of excess tax withheld.* If the letter of notification is also to be used as authorization for the release, pursuant to § 510.9(a)(3), of excess tax withheld from the pensions or life annuities, it shall also contain a statement that the owner was, at the time when the income was paid from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Norway. The dates of the beginning and ending of the taxable year of the taxpayer in which the pensions or annuities were paid shall also be indicated.

(3) *Manner of filing letter of notification.* The letter of notification shall constitute authorization for the payment of the pensions or life annuities without withholding of United States tax at the source unless the Commissioner of Internal Revenue notifies the withholding agent thereafter to withhold the tax from such items of income. If, after filing a letter of notification, the owner of the income ceases to be eligible under the convention for the exemption from the United States tax on such items of income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) *Disposition of the letter of notification.* Each letter of notification filed pursuant to this paragraph, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington 25, D.C.

§ 510.8 Beneficiaries of a domestic estate or trust.

A nonresident alien individual who is a resident of Norway and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax granted by Articles VI, VI–A, and VII of the convention with respect to interest, dividends, and patent and copyright royalties, to the extent that (a) any amount paid, credited, or required to be distributed by the estate or trust to the beneficiary is deemed to consist of those items and (b) the items so deemed to be included in such amount would, without regard to the convention, be includible in his gross income: *Provided, however,* That the beneficiary otherwise satisfies the requirements for exemption or reduction specified in the respective articles concerned. To obtain the exemption from, or reduction in the rate of, withholding of United States tax in such a case, the beneficiary must, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate letter of notification prescribed in § 510.2(b)(2) or § 510.6(b)(1).

§ 510.9 **Release of excess tax withheld at source.**

(a) *Amounts to be released*—(1) *Tax withheld from dividends*—(i) *Dividends subject to 15 percent rate.* If United States tax has been withheld at the statutory rate on or after January 1, 1960, from dividends described in § 510.4(a)(1) received from a domestic corporation by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) or by a foreign corporation or other entity, whose address at the time of payment was in Norway, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 510.4(b)(1).

(ii) *Dividends subject to 5 percent rate.* If United States tax has been withheld at the statutory rate on or after January 1, 1960, from dividends which qualify for the reduced rate of 5 percent under § 510.4(a)(2)(i), the withholding agent shall, if so authorized in accordance with § 510.4(a)(2)(iii), release and pay over to the corporation from which the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 510.4(b)(2).

(iii) *Dividends exempt from tax.* If United States tax at the statutory rate has been withheld on or after January 1, 1960, from dividends paid by a Norwegian corporation to a recipient other than a citizen or resident or corporation of the United States, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(2) *Tax withheld from coupon bond interest*—(i) *Substitute ownership certificate.* In the case of every taxpayer who furnishes to the withholding agent Form 1001-NO clearly marked "Substitute" and executed in accordance with § 510.2(b)(1)(i), where United States tax has been withheld at the statutory rate on or after January 1, 1960, from coupon bond interest, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld from such interest derived by the taxpayer in a taxable year beginning on or after January 1, 1960, if the taxpayer also attaches to the form a letter in duplicate, signed by the owner, or by his trustee or agent, and containing the following:

(*a*) The name and address of the obligor;

(*b*) The name and address of the owner of the interest from which the excess tax was withheld;

(*c*) A statement that, at the time when the interest was derived from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Norway, or, in the case of a corporation or other entity, the owner was a Norwegian corporation or other entity;

(*d*) A statement that the owner did not have a permanent establishment in the United States at any time during the taxable year in which the interest was derived; and

(*e*) The dates of the beginning and ending of the taxable year of the taxpayer in which the interest was derived.

(ii) *Manner of filing substitute ownership certificate.* One substitute Form 1001-NO shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which the excess is released.

(iii) *Disposition of substitute ownership certificate.* The original and duplicate of substitute Form 1001-NO (and letter) shall be forwarded by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington 25, D.C., in accordance with § 1.1461-2(b) of the Income Tax Regulations (26 CFR 1.1461-2(b)).

(3) *Tax withheld from interest on noncoupon bonds, patent and copyright royalties, and private pensions and life annuities.* If a taxpayer furnishes to the withholding agent the authorization for release prescribed in § 510.2(b)(2)(ii), § 510.6(b)(2), or § 510.7(b)(2) and United States tax has been withheld at the statutory rate on or after January 1, 1960, from the interest, patent royalties, copyright royalties, film rentals, and private pensions and life annuities in respect to which such authorization is prescribed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld from such private pensions and life annuities paid to, and from such interest, royalties, and rentals derived by, the taxpayer in a taxable year beginning on or after January 1, 1960.

(b) *Amounts not to be released.* The provisions of this section do not apply to any excess tax withheld at the source which has been paid by the withholding agent to the Director, International Operations Division.

(c) *Statutory rate.* As used in this section, the term "statutory rate" means the rate prescribed by chapter 3 (relating to the withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds) of the Internal Revenue Code of 1954 as though the convention has not come into effect.

§ 510.10 **Information to be furnished to Norway in ordinary course.**

For provisions relating to the exchange of information under Articles XV and XVI of the convention, see § 1.1461-2(d) of the Income Tax Regulations (26 CFR 1.1461-2(d)).

§ 510.11 **Applicability of regulations.**

(a) *Effective date; applicability of prior regulations.* The provisions of §§ 510.1 to 510.11 shall be effective with respect to taxable years beginning after December 31, 1959, and for such taxable years §§ 510.1 to 510.11 supersede the provisions of Treasury Decision 5956, approved December 9, 1952 (26 CFR (1939) 7.100 through 7.109), except that §§ 510.1 to 510.11 shall not be construed to require the renewal of any document filed by a taxpayer pursuant to Treasury Decision 5956 in respect of any taxable year beginning after December 31, 1959.

(b) *Fiscal years beginning in 1960.* Since the provisions of Article VI-A of the convention, relating to the exemption from or reduction in the rate of United States tax on dividends, are effective for taxable years beginning on or after January 1, 1960, the fact that the exemption from or reduction in the rate of withholding of United States tax on dividends authorized by §§ 510.1 to 510.11 are made effective beginning January 1, 1960, is not a determination in itself that the dividends concerned are entitled to the benefit of the exemption from or reduced rate of United States tax granted by the convention.

Because it is necessary to bring into effect at the earliest practicable date the rules of this Treasury decision respecting release of excess tax withheld, and exemption from, or reduction in rate of, withholding of tax, it is hereby found that it is impracticable to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

[SEAL] DANA LATHAM,
Commission of Internal Revenue.

Approved: August 10, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 60-7647; Filed, Aug. 15, 1960; 8:50 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 609—WOMEN'S AND CHILDREN'S UNDERWEAR AND WOMEN'S BLOUSE AND NECKWEAR INDUSTRY IN PUERTO RICO

Wage Order Giving Effect to Recommendations of Industry Committee

Pursuant to section 5 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1062, as amended; 29 U.S.C. 205), the Secretary of Labor by Administrative Order No. 534 (25 F.R. 5296), appointed and convened Industry Committee No. 48-C and referred to it and duly noticed a hearing on the question of the minimum wage rate or rates to be paid under section 6 of the Act to employees in the Women's and Children's Underwear and Women's Blouse and Neckwear Industry in Puerto Rico, as defined in the said Administrative Order, who are engaged in commerce or in the production of goods for commerce.

Subsequent to an investigation and a hearing conducted pursuant to the aforesaid notice, the Committee filed with the Administrator a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1064, as amended; 29 U.S.C. 208), Reorganization Plan No. 6 of 1950 (64 Stat. 1263; 3 CFR, 1950 Supp., p. 165), and General Order No. 45-A (15 F.R. 3290) of the Secretary of Labor, the recommendations of the Committee are are hereby published in this order revising 29 CFR Part 609, effective September 1, 1960, to read as follows:

Sec.
609.1 Definition of the industry.
609.2 Wage rates.
609.3 Notices.

AUTHORITY: §§ 609.1 to 609.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U.S.C. 208. Interpret or apply sec. 6, 52 Stat. 1062, as amended; 29 U.S.C. 206.

§ 609.1 Definition of the industry.

The women's and children's underwear and women's blouse and neckwear industry in Puerto Rico is defined as follows: The knitting or manufacture from woven or knit fabric, of women's, misses', girls', boys' size 6X and under, and infants' underwear and nightwear, including but not by way of limitation, slips, petticoats, nightgowns, negligees, panties, undershirts, briefs, shorts, pajamas, sleepers, and similar articles; and the manufacture of women's and misses' blouses, shirts, waists, neckwear (including collar and cuff sets), and scarves (excluding square scarves): *Provided, however*, That the industry shall not include any product or activity included in the corsets, brassieres, and allied garments industry in Puerto Rico (Part 614 of this chapter); or the outlining or embroidery of lace by machine, or the embroidery of any article or trimming by a crochet beading process or with bullion thread.

§ 609.2 Wage rates.

(a) *Hand-sewing classification.* Wages at a rate of not less than 64 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the women's and children's underwear and women's blouse and neckwear industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce and who is also engaged in the hand-sewing classification of the industry, which is defined as the operations of hand-sewing, hand-embroidering, hand-embellishing, ornamental stitching, and similar operations involving decorative efforts: *Provided, however*, That mending, repairing, sewing of labels, tacking, and similar operations on articles which are wholly machine-sewn or machine-knit shall not be included.

(b) *Other operations classification.* Wages at a rate of not less than 79 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the women's and children's underwear and women's blouse and neckwear industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce and who is also engaged in the other operations classification of the industry, which is defined as all operations in the industry, other than those operations in the hand-sewing classification.

§ 609.3 Notices.

Every employer subject to the provisions of § 609.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 609.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour and Public Contracts Divisions of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D.C., this 11th day of August 1960.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 60-7645; Filed, Aug. 15, 1960; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 716—DEATH GRATUITY

Service Without Pay

Scope and purpose. Section 716.3(a) is revised to conform with current Departmental regulations.

Section 716.3(a) is revised to read as follows:

(a) *Service without pay.* Any member of a Reserve component who performs active duty, active duty for training, or inactive-duty training without pay shall, for purposes of a death gratuity payment, be considered as being entitled to basic pay, including special pay and incentive pay if appropriate, while performing such duties.

(R.S. 161, 5 U.S.C. 22; 70A Stat. 278, 72 Stat. 1452, 10 U.S.C. 1475-1480, 5031)

[SEAL] ROBERT D. POWERS, Jr.,
Captain, U.S. Navy, Acting Judge Advocate General of the Navy.

AUGUST 9, 1960.

[F.R. Doc. 60-7617; Filed, Aug. 15, 1960; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 205—DUMPING GROUNDS REGULATIONS

Gulf of Mexico off Alabama Coast

Pursuant to the provisions of section 4 of the River and Harbor Act of March 3, 1905 (40 Stat. 1147; 33 U.S.C. 419), § 205.33 establishing and governing the use of a dumping ground in the Gulf of Mexico off the Alabama coast is hereby revoked, effective upon publication in the FEDERAL REGISTER, as follows:

§ 205.33 Gulf of Mexico off Alabama Coast. [Revoked]

[Regs., Aug. 3, 1960, 285/91 (Gulf of Mexico, Ala.)-ENGCW-O] (Sec. 4, 40 Stat. 1147; 33 U.S.C. 419)

R. V. LEE,
Major General, U.S. Army, The Adjutant General.

[F.R. Doc. 60-7616; Filed, Aug. 15, 1960; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—VETERANS CLAIMS

Effect of Admission of the State of Hawaii Into the Union on Payment of Burial Benefits

Part 3, Chapter I of Title 38 of the Code of Federal Regulations, is amended by adding § 3.1548 as follows:

§ 3.1548 Effect of admission of the State of Hawaii into the Union on payment of burial benefits.

(a) *Provisions of the law.* Section 25(b), Public Law 86-624, amends section 903 of Title 38, United States Code, on the subject "Death in Veterans' Administration facility", by revising subsection (b) to read as follows:

In addition to the foregoing, when such a death occurs in the continental United States or Hawaii, the Administrator shall transport the body to the place of burial in the continental United States or Hawaii. Where such a death occurs in a Territory, a Commonwealth, or a possession of the United States, the Administrator shall transport the body to the place of burial within such Territory, Commonwealth, or possession.

(b) *Effect of the act.* Section 903(b) of Title 38, United States Code, relates to the authority of the Veterans Administration to transport the bodies of veterans who have died in Veterans Administration facilities. Prior to enactment of Public Law 86-624 this section provided that when a death occurred in the continental United States (this included Alaska but excluded Hawaii) transportation of the body could be provided to the place of burial in the continental United States. There was no explicit provision included for transportation of the bodies of deceased veterans from Hawaii to the other States or from the other States to Hawaii. Public Law 86-624 removes the statutory distinctions between Hawaii and the other States and accords Hawaii the same treatment as the other States.

(c) *Adjudication procedure.* There may be paid in addition to the actual cost of funeral and burial (not to exceed $250) the cost of transporting the body to the place of burial within the continental limits of the United States or Hawaii if the death of a veteran occurs:

(1) While traveling under prior authorization and at Veterans Administration expense to or from a specified place for the purpose of examination, treatment, or care; or

(2) While properly hospitalized by the Veterans Administration; or

(3) While receiving domiciliary care from the Veterans Administration.

(d) *Effective date.* Section 25(b) of this law became effective on the date of enactment, July 12, 1960. Therefore, it applies where the veteran died on or after that date. (Instruction 1, 38 U.S.C. 903(b), Public Law 86-624.)

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective August 16, 1960.

[SEAL] BRADFORD MORSE, *Deputy Administrator.*

[F.R. Doc. 60-7651; Filed, Aug. 15, 1960; 8:50 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 113—TREATMENT OF OUTGOING POSTAL UNION MAIL

PART 131—AIR SERVICE

PART 135—SPECIAL DELIVERY (EXPRESS)

Miscellaneous Amendments

The regulations of the Post Office Department are amended as follows:

I. In Part 113—Treatment of Outgoing Postal Union Mail, as published in Federal Register document 60-1246, 25 F.R. 1095, make the following changes:

A. Section 113.2 *Shortpaid and unpaid,* is amended to show the treatment to be accorded certain shortpaid and unpaid outgoing postal union mail. As so amended, § 113.2 reads as follows:

§ 113.2 Shortpaid and unpaid.

(a) *At mailing office.* Mailing office shall return shortpaid and unpaid articles to the sender for deficient postage, except the following:

(1) *Special-delivery.* Dispatch to appropriate exchange office, by surface or air, unless deficiency can be obtained without delaying the article.

(2) *Letter mail and post cards with return address at an office other than the mailing office.* Dispatch to appropriate exchange office, by surface or air, for handling.

(3) *Articles without return address.* Send to proper dead letter branch for treatment, except letter mail and post cards. These are dispatched to appropriate exchange office, by surface or air, for handling.

(b) *At transit offices.* Transit offices shall not intercept shortpaid articles, but will allow such articles to go forward to the exchange office.

(c) *Credit for postage already affixed.* Credit is allowed for postage already affixed in figuring correct amount on articles returned to senders for deficient postage.

(d) *POD Form 2947-A.* If the deficiency is to be collected from the sender, POD Form 2947-A, "Notice to mailer of irregularities in international mail", is sent requesting that the deficiency be supplied to the exchange office.

NOTE: The corresponding Postal Manual section is 223.2.

B. In § 113.3 *Improperly prepaid,* paragraph (b) is amended for the purpose of clarification to read as follows:

§ 113.3 Improperly prepaid.

* * * * *

(b) *Oversized post cards.* Post offices will return oversized post cards (those exceeding 6 x 4½ inches) to senders, if known, unless they qualify as prints or are paid at letter rates. If sender is not known, dispatch oversized cards to the exchange office for handling as letter mail.

NOTE: The corresponding Postal Manual section is 223.32.

C. In § 113.4 *Forwarding,* paragraph (b) is amended by inserting "United States" preceding "postage" in the last sentence therein. As so amended, paragraph (b) reads as follows:

§ 113.4 Forwarding.

* * * * *

(b) *Domestic.* Unregistered letters (except those which appear to contain merchandise) and post cards are the only domestic mail articles permitted to be redirected to another country. They are forwarded by surface means without prepayment of additional postage. Credit is allowed for the postage already on the articles, and only the deficiency is collected on delivery. Articles are forwarded by air only if the required additional United States postage is prepaid.

NOTE: The corresponding Postal Manual section is 223.42.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

II. In Part 131—Air Service, as published in Federal Register document 60-1246, 25 F.R. 1095, make the following changes:

A. Section 131.3 *Prepayment* is amended for the purpose of clarification to read as follows:

§ 131.3 Prepayment.

(a) *How paid.* See § 26.4 of this chapter. See § 111.2(c) of this chapter concerning articles intended for air transmission received from foreign flag vessels and prepaid with foreign postage stamps.

(b) *Full payment necessary.* Postage on airmail must be fully paid to assure dispatch without delay. See § 113.2 of this chapter for information on treatment of shortpaid and unpaid airmail.

NOTE: The corresponding Postal Manual section is 241.3.

B. Section 131.4 *Marking* is amended as a result of the consolidation of airmail labels 19 and 55; and to show that accepting clerks are required to place an airmail label "Par Avion" on air parcels and on the dispatch note if that form is required to the country of address. As so amended, § 131.4 reads as follows:

§ 131.4 Marking.

(a) *Postal Union mail.* Articles to be sent by air must bear in the upper left corner, immediately below the sender's return card, the words "Par Avion" in blue color. Senders may use the revised official airmail label 19 bearing the words "Par Avion", or those words may be printed, stamped, or written on the articles. Post offices must not return articles to senders because of failure to affix a "Par Avion" label or failure to endorse those words on the articles.

(b) *Parcel post.* Accepting clerks will place an airmail label 19 on the address side of each parcel to be sent by air. Paste the label below and to the right of the name of the country of destination. If a dispatch note, Form 2972, is required the airmail label shall be placed on that form also.

NOTE: The corresponding Postal Manual section is 241.4.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

III. In § 135.3 *Payment,* as published in Federal Register document 60-1246, 25 F.R. 1095, paragraph (c) is amended to eliminate the provision for marking shortpaid special delivery mail "Not in special-delivery mail" and dispatching it as ordinary mail; and to show that the revised regulations now appear in § 113.2 (a)(1) of this chapter. As so amended, paragraph (c) reads as follows:

§ 135.3 Payment.

* * * * *

(c) *Shortpayment.* See § 113.2(a)(1) of this chapter.

NOTE: The corresponding Postal Manual section is 245.33.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

[SEAL] HERBERT B. WARBURTON, *General Counsel.*

[F.R. Doc. 60-7642; Filed, Aug. 15, 1960; 8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2177]

[Utah 06124]

UTAH

Revoking Public Land Orders No. 1187 and No. 1219

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Public Land Order No. 1187 of July 11, 1955, which was revoked in part by Public Land Order No. 1554 of November 19, 1957, and Public Land Order No. 1219

of September 13, 1955, withdrawing public lands for materials sites, are hereby revoked. The following described lands are released by this order:

a. Public Land Order No. 1187:

SALT LAKE MERIDIAN

T. 6 N., R. 5 W.,
Sec. 6, lot 7 and SE¼SW¼;
Sec. 19, lots 3, 4, and E½SW¼.
T. 6 N., R. 6 W.,
Sec. 1, W½SW¼, SE¼SW¼, and S½SE¼;
Sec. 12, W½W½ and NE¼NW¼;
Sec. 13, NW¼NW¼ and W½SW¼;
Sec. 24, NW¼.

The areas described aggregate 916.90 acres.

b. Public Land Order No. 1219:

SALT LAKE MERIDIAN

T. 6 N., R. 5 W.,
Sec. 7, NW¼;
Sec. 19, NW¼.
T. 6 N., R. 6 W.,
Sec. 12, NE¼ and SE¼NW¼.

The areas described aggregate 450.89 acres.

2. The lands are situated at the southern end of Promontory Point, 30 to 32 miles west of Ogden, Utah. Topography is steep and rough.

3. No application for the lands may be allowed under the homestead, desert land, small tract, or any other nonmineral public land laws unless the lands have already been classified as valuable or suitable for such type of application or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any valid existing rights and the requirements of applicable law, the lands released by this order are hereby opened to application, petition, location, and selection in accordance with the following:

a. Applications and selections under the nonmineral public land laws, and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) Until 10:00 a.m., on February 14, 1961, the State of Utah shall have a preferred right of application to select the lands described in paragraph 1b, of this order in accordance with and subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852), and the regulations in 43 CFR.

(3) All valid applications and selections under the nonmineral public land laws, and applications and offers under the mineral leasing laws, other than from the State for lands described in paragraph 1b, presented prior to 10:00 a.m. on September 15, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and offers filed after that hour will be governed by the time of filing.

b. The lands will be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws, begining at 10:00 a.m. on September 15, 1960, as to the lands described in paragraph 1a, hereof, and at 10:00 a.m. on February 14, 1961, as to the lands described in paragraph 1b.

5. The State of Utah has waived its preference right of application granted by the act of August 27, 1958, supra, as to the lands described in paragraph 1a of this order.

6. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Salt Lake City, Utah.

FRED G. AANDAHL,
Assistant Secretary of the Interior.

AUGUST 10, 1960.

[F.R. Doc. 60-7628; Filed, Aug. 16, 1960; 8:47 a.m.]

Title 45—PUBLIC WELFARE

Chapter V—Foreign Claims Settlement Commission of the United States

SUBCHAPTER A—RULES OF PRACTICE

PART 500—APPEARANCE AND PRACTICE BEFORE THE COMMISSION

SUBCHAPTER C—RECEIPT, ADMINISTRATION AND PAYMENT OF CLAIMS UNDER THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

PART 531—FILING OF CLAIMS AND PROCEDURES THEREFOR

Miscellaneous Amendments

1. Section 500.2(c) is hereby amended to read as follows:

(c) The total remuneration on account of services rendered or to be rendered to or on behalf of any claimant in connection with any claim falling within Title I and Title IV of the Act shall not exceed ten per centum of the total amount paid on account of such claim.

(Sec. 4, 64 Stat. 13, as amended; 22 U.S.C. 1623 and 72 Stat. 527, 22 U.S.C. 1642 Note)

2. Section 531.1 is hereby amended by adding a new paragraph as follows:

(c) Claims under Title I of the Act (Polish claims) shall be filed with the Commission on or before September 30, 1961.

(Sec. 4, 64 Stat. 13, as amended; 22 U.S.C. 1623)

3. Section 531.2 is hereby amended by adding the following paragraphs after paragraph (c):

(d) FCSC Form 709 (Claim Against the Government of the Polish People's Republic).

(e) Notice to the Foreign Claims Settlement Commission, the Department of State, or any other governmental office or agency, prior to the enactment of the statute authorizing a claims program or the effective date of a lump-sum claims settlement agreement, of an intention to file a claim against a foreign country, shall not be considered as a timely filing of a claim under the statute or agreement.

(f) Any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period therefor, shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period.

(Sec. 3, 64 Stat. 13, as amended; 22 U.S.C. 1622 and 72 Stat. 527, 22 U.S.C. 1642 Note)

4. Paragraph (g) of § 531.5 is hereby amended to read as follows:

(g) Upon the expiration of 20 days for Title IV (Czechoslovakian) and 60 days for Title I (Polish) claims, after such service or receipt of notice, if no objection under this section has in the meantime been filed, such proposed decision shall, without further order or decision of the Commission, become the Commission's final determination and decision on the claim.

(Sec. 3, 64 Stat. 13, as amended; 22 U.S.C. 1622 and 72 Stat. 527, 22 U.S.C. 1642 Note)

These amendments shall become effective as of the date of filing with the office of the Federal Register.

Dated: August 11, 1960.

MRS. STANLEY D. PACE,
Chairman, Foreign Claims Settlement Commission of the United States.

[F.R. Doc. 60-7643; Filed, Aug. 15, 1960; 8:49 a.m.]

Title 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 6—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

Basis and purpose. Section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 704), authorizes and directs the Secretary of the Interior, from time to time, having due regard for the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, to determine when, to what extent, and by what means, such birds or any part, nest or egg thereof, may be taken, captured, killed, possessed, sold, purchased, shipped, carried, or transported.

By notice of proposed rule making published on April 8, 1960 (25 F.R. 3037), the public was invited to submit views, data, or arguments, in writing to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C., on or before June 27, 1960, and thus participate in the preparation of amendments to Part 6, Title 50, Code of Federal Regulations, to be proposed for the purpose, among others, of specifying open seasons, certain closed seasons, means of hunting, shooting hours, and bag limits for migratory game birds.

Subsequently, after due consideration of data obtained through investigations conducted by personnel of the Fish and Wildlife Service, State game departments, and from other sources, the several State game departments, Puerto Rico, and the Virgin Islands were informed concerning the shooting hours, season lengths, and daily bag and possession limits proposed to be prescribed for the 1960–61 seasons on band-tailed pigeons, gallinules, mourning doves, rails, white-winged doves, Wilson's snipe, woodcock, and on waterfowl and coots in Alaska. The State game departments, Puerto Rico, and the Virgin Islands were also invited to submit recommendations for hunting seasons in the respective States on applicable members of these species; such hunting seasons to conform to the shooting hours and season lengths, and to fall within a framework of opening and closing dates, as established by this Department.

Accordingly, each State game department, Puerto Rico, and the Virgin Islands having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory game birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, it has been determined that §§ 6.4, 6.41, 6.46, 6.51, and 6.52 shall be amended as indicated below.

1. Section 6.4(a) is amended to read as follows:

§ 6.4 Open seasons, limits, and other provisions.

(a) Migratory game birds may be taken during the open seasons and hours prescribed in the schedules hereinafter provided in this part.

2. Section 6.41 is amended to read as follows:

§ 6.41 Seasons and limits on doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species of doves and wild pigeons designated in this section are prescribed between the dates of September 1, 1960 and January 15, 1961, as follows:

(a) *Mourning doves—Eastern Dove Management Unit.*

Daily bag limit	12
Possession limit	24
Shooting hours	See footnote 1.
Seasons in:	
Alabama	Oct. 1–Oct. 31. Dec. 1–Jan. 8.
Connecticut	Closed season.
Delaware	Sept. 9–Oct. 29. Nov. 18–Dec. 6.
District of Columbia	Closed season.
Florida [2]	See footnote 2.
Georgia	Sept. 15–Oct. 1. Nov. 23–Jan. 14.
Illinois	Sept. 1–Nov. 9.
Indiana	Closed season.
Kentucky	Sept. 1–Oct. 31. Dec. 1–Dec. 9.
Louisiana	Sept. 3–Sept. 20. Nov. 12–Jan. 2.
Maine	Closed season.
Maryland	Sept. 12–Oct. 31. Dec. 17–Jan. 5.
Massachusetts	Closed season.
Michigan	Do.
Mississippi	Sept. 9–Oct. 3. Dec. 2–Jan. 15.
New Hampshire	Closed season.
New Jersey	Do.
New York	Do.
North Carolina	Sept. 10–Oct. 15. Dec. 12–Jan. 14.
Ohio	Closed season.
Pennsylvania	Sept. 1–Nov. 9.
Rhode Island	Oct. 24–Dec. 31.
South Carolina	Sept. 15–Oct. 8. Nov. 30–Jan. 14.
Tennessee	Sept. 1–Oct. 22. Dec. 15–Jan. 1.
Vermont	Closed season.
Virginia	Sept. 15–Nov. 23.
West Virginia	Oct. 1–Dec. 9.
Wisconsin	Closed season.

[1] Shooting hours are from 12 o'clock noon until sunset (Standard time).
[2] Florida: In the counties of Collier, Hardee, De Soto, Charlotte, Glades, Okeechobee, Escambia, Santa Rosa, Okaloosa, Walton, and that portion of Holmes county west of the Choctawhatchee River, Nov. 24–Jan. 9; in the rest of the State Oct. 15–Nov. 6 and Nov. 24–Jan. 9.

(b) *Mourning doves—Central Dove Management Unit.*

Daily bag limit	15
Possession limit	30
Shooting hours	See footnote 1.
Arkansas	Sept. 1–Oct. 8. Dec. 20–Jan. 10.
Colorado	Sept. 1–Oct. 30.
Iowa	Closed season.
Kansas	Sept. 1–Oct. 30.
Minnesota	Closed season.
Missouri	Sept. 1–Oct. 10. Nov. 10–Nov. 29.
Montana	Closed season.
Nebraska	Do.
New Mexico [2]	Sept. 1–Oct. 30.
North Dakota	Closed season.
Oklahoma	Sept. 1–Oct. 30.
South Dakota	Closed season.
Texas [1 2 3]	See footnote 3.
Wyoming	Closed season.

[1] Shooting hours are from one-half hour before sunrise until sunset (Standard time) in all States except Texas. In Texas, shooting hours are 12 o'clock noon until sunset (Standard time) on all days except Sept. 9, 10, and 11 when shooting hours are from 2 p.m. until sunset (Standard time).
[2] In New Mexico, the daily bag limit on mourning and white-winged doves is 15, in the aggregate of both kinds, of which not more than 10 may be white-winged doves, and the possession limit is 30, in the aggregate of both kinds, of which not more than 20 may be white-winged doves. In Texas, the daily bag limit on mourning and white-winged doves is 15, in the aggregate of both kinds, of which not more than 10 may be white-winged doves, and the possession limit is 30, in the aggregate of both kinds, of which not more than 10 may be white-winged doves.
[3] Texas: Mourning doves in Val Verde, Kinney, Uvalde, Medina, Bexar, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby Counties and all counties north and west thereof, Sept. 1–Oct. 30; in the rest of State (but not including Cameron, Hidalgo, Starr, Zapata, Webb, Maverick, Dimmit, La Salle, Jim Hogg, Brooks, Kenedy, and Willacy Counties), Oct. 7–Dec. 5, in these latter counties Sept. 9, 10, and 11 and Oct. 7–Dec. 2.

(c) *Mourning doves—Western Dove Management Unit.*

Daily bag limit	10
Possession limit	20
Shooting hours	See footnote 1.
Arizona [2]	Sept. 1–Sept. 25. Dec. 10–Jan. 3.
California [2]	Sept. 1–Sept. 30.
Idaho	Sept. 1–Sept. 15.
Nevada	Sept. 1–Oct. 20.
Oregon	Sept. 1–Sept. 30.
Utah	Sept. 1–Sept. 25.
Washington	Sept. 1–Sept. 30.

[1] Shooting hours are from one-half hour before sunrise until sunset (Standard time).
[2] In Arizona the daily bag and possession limit is 10 mourning doves. In California, the daily bag and possession limit on mourning and white-winged doves is 10, singly or in the aggregate of both kinds.

(d) *White-winged doves.*

Daily bag and possession limits	See footnote 2.
Shooting hours	See footnote 1.
Seasons in:	
Arizona [2]	Sept. 1–Sept. 25. Dec. 10–Jan. 3.
California:	
Counties of: [2]	
Imperial	Sept. 1–Sept. 30.
Riverside	Sept. 1–Sept. 30.
San Bernardino	Sept. 1–Sept. 30.
Remainder of State	Closed season.
New Mexico [2]	Sept. 1–Oct. 30.
Texas:	
Counties of: [2]	
Brewster	Sept. 9, 10, and 11.
Brooks	Sept. 9, 10, and 11.
Cameron	Sept. 9, 10, and 11.
Culberson	Sept. 9, 10, and 11.
Dimmit	Sept. 9, 10, and 11.
El Paso	Sept. 9, 10, and 11.
Hidalgo	Sept. 9, 10, and 11.
Hudspeth	Sept. 9, 10, and 11.
Jeff Davis	Sept. 9, 10, and 11.
Jim Hogg	Sept. 9, 10, and 11.
Kenedy	Sept. 9, 10, and 11.
Kinney	Sept. 9, 10, and 11.
La Salle	Sept. 9, 10, and 11.
Maverick	Sept. 9, 10, and 11.
Presidio	Sept. 9, 10, and 11.
Starr	Sept. 9, 10, and 11.
Terrell	Sept. 9, 10, and 11.
Val Verde	Sept. 9, 10, and 11.
Webb	Sept. 9, 10, and 11.
Willacy	Sept. 9, 10, and 11.
Zapata	Sept. 9, 10, and 11.
Remainder of State	Closed season.

[1] Shooting hours are from one-half hour before sunrise until sunset (Standard time) in Arizona, New Mexico, and the open counties in California. In Texas, the shooting hours are from 2 p.m. until sunset (Standard time) in the open counties.
[2] In Arizona, the daily bag and possession limit is 25 white-winged doves. In California, the daily bag and possession limit on mourning and white-winged doves is 10, singly or in the aggregate of both kinds. In New Mexico, the daily bag limit on mourning and white-winged doves is 15, in the aggregate of both kinds, of which not more than 10 may be white-winged doves, and the possession limit is 30, in the aggregate of both kinds, of which not more than 20 may be white-winged doves. In Texas, the daily bag limit on mourning and white-winged doves is 15, in the aggregate of both kinds, of which not more than 10 may be white-winged doves, and the possession limit is 30, in the aggregate of both kinds, of which not more than 10 may be white-winged doves.

(e) **Band-tailed pigeons.**

Daily bag limit	8
Possession limit	8
Shooting hours	See footnote 1.
Seasons in:	
California:	
Counties of:	
Butte	Oct. 1–Oct. 30.
Del Norte	Oct. 1–Oct. 30.
Glenn	Oct. 1–Oct. 30.
Humboldt	Oct. 1–Oct. 30.
Lassen	Oct. 1–Oct. 30.
Mendocino	Oct. 1–Oct. 30.
Modoc	Oct. 1–Oct. 30.
Plumas	Oct. 1–Oct. 30.
Shasta	Oct. 1–Oct. 30.
Sierra	Oct. 1–Oct. 30.
Siskiyou	Oct. 1–Oct. 30.
Tehama	Oct. 1–Oct. 30.
Trinity	Oct. 1–Oct. 30.
Remainder of State	Dec. 17–Jan. 15.
Oregon	Sept. 1–Sept. 30.
Washington	Sept. 1–Sept. 30.

[1] Shooting hours are from one-half hour before sunrise until sunset (Standard time).

3. Section 6.46 is amended to read as follows:

§ 6.46 Seasons and limits on gallinules, rails, woodcock, and Wilson's snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1960 and January 15, 1961 for rails, gallinules, and Wilson's snipe, and between October 1, 1960 and January 15, 1961 for woodcock as follows:

(a) *Atlantic Flyway States.*

	Gallinules and rails (except coots)		Woodcock	Wilson's snipe
	Sora rail	Other rails and gallinules (singly or in the aggregate)		
Daily bag limit	25	15	4	8
Possession limits	25	30	8	8
Shooting hours [1]	Sunrise until sunset (Standard time) on all species.			
Seasons in:				
Connecticut	Sept. 1-Oct. 20		Oct. 22-Nov. 26	Oct. 22-Nov. 20.
Delaware	Sept. 1-Nov. 9		Nov. 18-Dec. 27	Nov. 18-Dec. 17.
District of Columbia	Closed season		Closed season	Closed season.
Florida	Sept. 23-Nov. 30		Dec. 17-Jan. 15	Dec. 17-Jan. 15.
Georgia	Sept. 6-Nov. 14		Dec. 6-Jan. 14	Dec. 6-Jan. 4.
Maine	Oct. 1-Dec. 9		Oct. 1-Nov. 9	Oct. 1-Oct. 30.
Maryland	Sept. 1-Oct. 20		Nov. 15-Dec. 24	Nov. 20-Dec. 19.
Massachusetts	Oct. 20-Dec. 28		Oct. 20-Nov. 28	Oct. 20-Nov. 18.
New Hampshire	Sept. 1-Nov. 9		Oct. 1-Nov. 9	Oct. 1-Oct. 30.
New Jersey	do		Oct. 17-Nov. 25	Nov. 12-Dec. 10.
New York [1]	do			Oct. 10-Nov. 8.
Counties of:				
Nassau			Nov. 1-Nov. 18	
Suffolk			do	
Remainder of State			Oct. 10-Nov. 18	
North Carolina	Sept. 1-Nov. 9		Nov. 24-Jan. 2	Nov. 24-Dec. 23.
Pennsylvania	do		Oct. 15-Nov. 23	Oct. 1-Oct. 29.
Rhode Island	Oct. 24-Dec. 31		Oct. 24-Dec. 2	Oct. 24-Nov. 22.
South Carolina	Oct. 1-Dec. 9		Dec. 6-Jan. 14	Dec. 16-Jan. 14.
Vermont	Sept. 1-Nov. 9		Oct. 1-Nov. 9	Oct. 1-Oct. 30.
Virginia	Sept. 1-Oct. 31		Nov. 21-Dec. 30	Nov. 21-Dec. 20.
West Virginia	Oct. 1-Dec. 9		Oct. 25-Dec. 3	Oct. 25-Nov. 23.

[1] In New York, shooting hours on woodcock are from 9 a.m. until 5 p.m. on the first day of the respective open seasons and from 7 a.m. until 5 p.m. on each day thereafter.

(b) *Mississippi Flyway States.*

	Gallinules and rails (except coots)		Woodcock	Wilson's snipe
	Sora rail	Other rails and gallinules (singly or in the aggregate)		
Daily bag limit	25	15	4	8
Possession limit	25	15	8	8
Shooting hours	Sunrise until sunset (Standard time) on all species.			
Seasons in:				
Alabama	Nov. 24-Jan. 12		Nov. 24-Jan. 2	Dec. 17-Jan. 15.
Arkansas	Sept. 1-Oct. 20		Dec. 1-Jan. 9	Do.
Illinois	Closed season		Nov. 19-Dec. 28	Oct. 28-Nov. 26.
Indiana	Sept. 1-Oct. 20		Oct. 28-Dec. 6	Do.
Iowa [1]	Closed season		Closed season	See footnote 1.
Kentucky	Nov. 17-Jan. 5		Nov. 17-Dec. 26	Nov. 17-Dec. 16.
Louisiana	Oct. 1-Nov. 19		Dec. 7-Jan. 15	Dec. 3-Jan. 1.
Michigan: [1 2]	See footnote 2			See footnote 1.
Zone 1 and 2			Oct. 1-Nov. 9	
Zone 3			Oct. 20-Nov. 9	
Minnesota [1]	Sept. 1-Oct. 20		Oct. 1-Nov. 9	Do.
Mississippi	Oct. 1-Nov. 19		Nov. 23-Jan. 1	Dec. 17-Jan. 15.
Missouri	Sept. 1-Oct. 20		Nov. 10-Dec. 19	Oct. 1-Oct. 30.
Ohio	do		Oct. 3-Nov. 11	Oct. 3-Nov. 1.
Tennessee	Nov. 22-Jan. 10		Nov. 15-Dec. 24	Dec. 1-Dec. 30.
Wisconsin [1 2]	See footnote 2		Oct. 1-Nov. 9	See footnote 1.

[1] Seasons on Wilson's snipe in States indicated will be prescribed when the waterfowl seasons are selected.
[2] Seasons on rails and gallinules in States indicated will be prescribed when the waterfowl seasons are selected.

(c) *Central Flyway States.*

	Gallinules and rails (except coots)		Woodcock	Wilson's snipe
	Sora rail	Other rails and gallinules (singly or in the aggregate)		
Daily bag limit	25	15	4	8
Possession limit	25	15	8	8
Shooting hours	Sunrise until sunset (Standard time) on all species.			
Seasons in:				
Colorado	Sept. 1-Oct. 20		Closed season	Oct. 26-Nov. 24.
Kansas	do		Oct. 1-Nov. 9	Sept. 15-Oct. 14.
Montana	Closed season		Closed season	Closed season.
Nebraska	Oct. 8-Nov. 26		do	Oct. 8-Nov. 6.
New Mexico	Sept. 15-Nov. 3		do	Sept. 15-Oct. 14.
North Dakota [1]	Closed season		do	See footnote 1.
Oklahoma	Sept. 11-Oct. 30		Nov. 23-Jan. 1	Oct. 1-Oct. 30.
South Dakota	Closed season		Closed season	Do.
Texas	Sept. 1-Oct. 20		Dec. 7-Jan. 15	Dec. 3-Jan. 1.
Wyoming	Closed season		Closed season	Closed season.

[1] Season on Wilson's snipe in North Dakota will be prescribed when the waterfowl season is selected.

(d) *Pacific Flyway States.*

	Gallinules and rails (except coots)		Woodcock	Wilson's snipe
	Sora rail	Other rails and gallinules (singly or in the aggregate)		
Daily bag limit	25	15	4	8
Possession limit	25	15	8	8
Shooting hours	Sunrise until sunset (Standard time) on all species.			
Seasons in:				
Arizona [1] [2]	See footnote 2		Closed season	See footnote 1.
California [2]	do		do	Dec. 3–Jan. 1.
Idaho [2]	do		do	Nov. 1–Nov. 30.
Nevada [2]	do		do	Do.
Oregon [2]	do		do	Oct. 29–Nov. 27.
Utah [2]	do		do	Oct. 15–Nov. 13.
Washington [1] [2]	do		do	See footnote 1.

[1] Seasons on Wilson's snipe in States indicated will be prescribed when the waterfowl seasons are selected.
[2] Seasons for taking gallinules in States indicated will be prescribed when the waterfowl and coot seasons are selected.

4. Section 6.51 is amended to read as follows:

§ 6.51 Seasons and limits on waterfowl, coot, and on Wilson's snipe in Alaska.

Subject to the provisions of the preceding sections of this part, the areas open to hunting, respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species of waterfowl and on coot and Wilson's snipe as designated in this section are prescribed between the dates of September 1, 1960 and January 8, 1961 as follows:

(a) *Alaska.*

	Duck [1]	Geese [2]	Coot	Brant	Wilson's snipe
Daily bag limits	5	5	15	3	8
Possession limits	10	10	15	3	8
Season dates	Sept. 1–Dec. 3				Sept. 1–Oct. 15.
Shooting hours	One-half hour before sunrise until sunset (Standard time) on all species.				

[1] Ducks: In addition to the daily bag and possession limits prescribed in the above table, a daily bag limit of 10, and a possession limit of 20, singly or in the aggregate of the following species are permitted: scoter, eider, harlequin, old-squaw, and American and red-breasted mergansers.
[2] Geese: The daily bag limit of 5 and the possession limit of 10 may not include more than 3 daily, singly or in the aggregate, nor more than 6 in possession, singly or in the aggregate, of white-fronted geese and Canada geese or subspecies of Canada geese or white-fronted geese.

(b) *Eider, old-squaw, and scoter ducks—Atlantic Flyway.*

Daily bag limit	7	Singly or in the aggregate, in addition to other ducks.[2]
Possession limit	14	

Shooting hours: Sunrise until sunset (Standard time).

Special season in open coastal water only, beyond outer harbor lines in:[1]	
Connecticut	Oct. 1–Jan. 8.[1]
Maine	
Massachusetts	
New Hampshire	
New York	
Rhode Island	

[1] In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, and Rhode Island, the season for taking eider, old-squaw, and scoter ducks beyond outer harbor lines is from October 1 through January 8. In areas other than those beyond outer harbor lines in these States, and in all other States in the Atlantic Flyway, eider, old-squaw, and scoter ducks may be taken only during the open season for other ducks.
[2] During the open season in all States in the Atlantic Flyway, in addition to the bag limit on other ducks, a daily bag limit of 7 and a possession limit of 14 eider, old-squaw, and scoter ducks, singly or in the aggregate of these species, are permitted.

5. Section 6.52 is amended to read as follows:

§ 6.52 Migratory game bird hunting seasons for Puerto Rico and the Virgin Islands.

Subject to the provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed between the dates of September 1, 1960 and February 12, 1961 as follows:

(a) *Seasons and limits on doves, gallinules, and rails in Puerto Rico and the Virgin Islands.*

	Doves (all species) (singly or in the aggregate) [1]	Gallinules and rails (except coot) (singly or in the aggregate)
Daily bag limits	10	15
Possession limits	10	30
Seasons	Sept 1–Oct. 30	Dec. 15–Feb. 12.
Shooting hours	Sunrise until sunset (Standard time).	

[1] No open season is prescribed for any species of pigeon.

(Sec. 3, 40 Stat. 755, as amended; 16 U.S.C. 704; E.O. 10250, 16 F.R. 5385, 3 CFR 1949–1953 Comp. p. 757)

The taking of migratory game birds is presently prohibited. The foregoing amendments will serve to permit the taking of designated species of such birds within specified periods of time beginning as early as September 1, as has been the case in prescribing hunting seasons in past years. The hunting public has over the years become accustomed to a September 1 opening date in many areas on certain species of migratory game birds and many hunters make hunting reservations well in advance of such date. Because of this fact and since these amendments will not be published at a date early enough to allow the usual 30-day period of publication afforded by the Administrative Procedure Act of June 11, 1946 (60 Stat. 237), if hunting is to be permitted on September 1 and the public to be properly informed in advance, it is clearly impracticable to authorize such period of publication. Accordingly, since it is not in the public interest to afford the usual period of publication and since these amendments serve to relieve existing restrictions, the provisions of the exceptions provided in section 4(c) of the Administrative Procedure Act of June 11, 1946, are hereby invoked and the amendments shall become effective upon publication in the FEDERAL REGISTER.

FRED A. SEATON,
Secretary of the Interior.

AUGUST 8, 1960.

[F.R. Doc. 60-7527; Filed, Aug. 15, 1960; 8:45 a.m.]

SUBCHAPTER F—NORTH PACIFIC COMMERCIAL FISHERIES

PART 130—NORTH PACIFIC AREA

Salmon Fisheries

On page 5153 of the FEDERAL REGISTER of June 9, 1960, there was published a notice of intention to amend Part 130 of Title 50, Code of Federal Regulations. The purpose of the amendment is to extend the boundaries of the area on the high seas of the North Pacific Ocean where it is prohibited to fish for, or take, salmon with any net; to define the term North Pacific Area; and to retitle Subchapter F.

Interested persons were given 30 days within which to submit their written comments, suggestions or objections with respect to the proposed amendment. No written comments, suggestions or objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

The heading for Subchapter F of Title 50, Code of Federal Regulations, is amended to read: Subchapter F—North Pacific Commercial Fisheries.

Part 130 is amended to read as follows:

AUTHORITY: §§ 130.1 and 130.10 issued under sec. 1, 68 Stat. 698, as amended; 16 U.S.C. 1021 et seq.

§ 130.1 Definition.

For the purpose of the regulations of this part the North Pacific area is defined to include all waters of the North Pacific Ocean and Bering Sea north of 48 degrees 30 minutes north latitude, exclusive of waters adjacent to Alaska north and west of the International Boundary at Dixon Entrance which extend three miles seaward (a) from the coast, (b) from lines extending from headland to headland across all bays, inlets, straits, passes, sounds and entrances, and (c) from any island or groups of islands, including the islands of the Alexander Archipelago, and the waters between such groups of islands and the mainland.

§ 130.10 Salmon fishing prohibited, exception.

No person or fishing vessel subject to the jurisdiction of the United States shall fish for or take salmon with any net in the North Pacific area, as defined in this part: *Provided,* That this shall not apply to fishing for sockeye salmon or pink salmon south of latitude 49 degrees north.

Dated: August 9, 1960.

FRED A. SEATON,
Secretary of the Interior.

[F.R. Doc. 60-7626; Filed, Aug. 15, 1960; 8:47 a.m.]

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Parts 13, 31, 47, 48]

UNDELIVERABLE THIRD- AND FOURTH-CLASS MAIL

Procedure for Handling and Disposal

It is proposed to amend the Post Office Department regulations relating to the procedure for handling and disposing of undeliverable third- and fourth-class mail.

The present procedure for handling third-class mail which is undeliverable as addressed is complicated and costly. In order to simplify the procedure and reduce the costs, it is proposed to discontinue the use of Form 3547; discontinue delivering pieces of no obvious value to a new local address or forwarding them to other post offices; and dispose of as waste pieces of no obvious value for which return is not requested.

Mailers who indicate by the prescribed endorsement that they desire the return of undeliverable pieces of third- or fourth-class mail will be furnished the new address, if known, or if the new address is not known, the reason for nondelivery. A charge of five cents or postage at the third- or fourth-class rates, whichever is higher will be made for the return of each piece.

Although the regulations relate to a proprietary function of the Government, it is the desire of the Postmaster General voluntarily to observe the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1003) in order that patrons of the Postal Service may have an opportunity to present written views concerning the proposed regulations. Accordingly, such written views may be submitted to Mr. E. A. Riley, Director, Postal Services Division, Bureau of Operations, Room 4426, Post Office Department, Washington 25, D.C., at any time prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

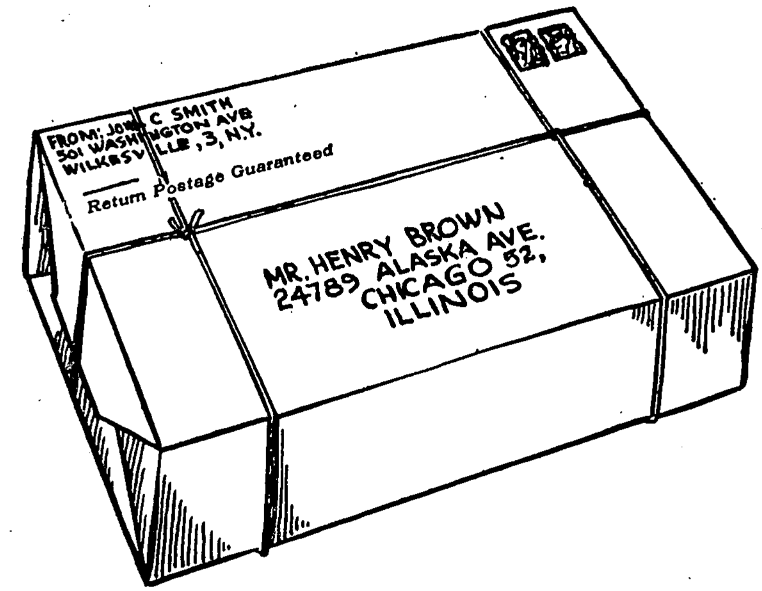
The proposed amendments are as follows:

In Part 13—Addresses:

I. Section 13.3 *Where to put handling instructions* is amended to read as follows:

§ 13.3 Where to put pledge to pay return postage.

Below the return address of the sender as illustrated. (Only on second-, obvious value third-, and fourth-class matter.)



NOTE: The corresponding Postal Manual section is 123.3.

(R.S. 161, as amended, 396, as amended, sec. 1, 64 Stat. 610; 5 U.S.C. 22, 369; 39 U.S.C. 278a)

In Part 31—Stamps, Envelopes, and Postal Cards:

§ 31.3 [Amendment]

II. In § 31.3 *Printed stamped envelopes (special request)* make the following changes in paragraph (c) *Return address requirement:*

A. In subparagraph (2), amend subdivision (i) to read as follows:

(i) A request to return after a specified number of days (not less than 3 and not more than 30).

B. In subparagraph (4), amend the first style illustration in subdivision (ii) to read as follows:

(ii) For third-class mail—

Richard Roe
1234 Ninth Avenue
Chicago 2, Illinois
Return Requested

(If sender desires return of undeliverable mail only of obvious value.)

NOTE: The corresponding Postal Manual sections are 141.32a and 141.334b.

(R.S. 161, as amended, 396, as amended, sec. 1, 64 Stat. 210; 5 U.S.C. 22, 369; 39 U.S.C. 278a)

In Part 47—Forwarding Mail:

§ 47.3 [Amendment]

III. In § 47.3 *Postage for forwarding* make the following changes:

A. Amend paragraph (a) to read as follows:

(a) *Change in local address.* If a change is made to an address served by the same post office, all first-, second-, and fourth-class mail and third-class mail of obvious value will be delivered as directed and additional postage will not be required. (See § 25.2(b)(4) of this chapter for local delivery.)

B. In paragraph (b) *change to another post office,* amend subparagraph (4) to read as follows:

(4) Third-class mail is subject to collection of additional postage at the single-piece rate when forwarded. (See § 24.1 of this chapter.) Such matter is forwarded only if it is of obvious value. Mail of no obvious value will be disposed of as undeliverable mail. (See § 48.2 (d) of this chapter.)

NOTE: The corresponding Postal Manual sections are 157.31 and 157.32d.

IV. Section 47.6 *Reforwarding* is amended to read as follows:

§ 47.6 Reforwarding.

The address (but not the name) may be changed and the mail reforwarded as many times as necessary to reach the addressee. Each time second-, third-class of obvious value, or fourth-class mail, and airmail weighing over 8 ounces, is reforwarded, it is charged additional postage at the appropriate rate.

NOTE: The corresponding Postal Manual section is 157.6.

V. Section 47.7 *Guarantee to pay forwarding postage* is amended to read as follows:

§ 47.7 Pledge to pay forwarding postage.

When the addressee has moved to a new post office address, he should file a Change of Address Order, POD Form 3575, which will pledge the payment of forwarding postage for second-, third-, and fourth-class parcels of obvious value and for newspapers and magazines mailed by publishers. The payment of forwarding postage may not be pledged by the mailer. When the addressee refuses to pay the postage due, the postmaster at the new address must send Notice to Change Forwarding Order, POD Form 3546, to the postmaster at the old address, requesting him to discontinue forwarding the mail.

NOTE: The corresponding Postal Manual section is 157.7.

(R.S. 161, as amended, 396, as amended, sec. 1, 64 Stat. 210; 5 U.S.C. 22, 369, 39 U.S.C. 278a)

In Part 48—Undeliverable Mail:

VI. In § 48.2 *Treatment by classes,* amend paragraphs (d) and (e) to read as follows:

§ 48.2 Treatment by classes.

* * * * *

(d) *Third-class mail.* (1) Undeliverable third-class mail of obvious value or bearing request for return, will be returned to sender endorsed to show the addressee's new address legibly printed, or reason for nondelivery and postage at the single piece third-class rate or 5 cents whichever is higher, will be collected on delivery. (See § 24.1 of this chapter.) Third-class mail having no obvious value, and without request for return will be treated as waste.

(2) Third-class mail having no obvious value will not be returned unless the sender:

(i) Prominently prints or handstamps in the upper left corner, "Return Requested," and shows his name and return address. (See § 48.3(d).)

(ii) Accepts and pays the charge for each returned piece.

(e) *Fourth-class mail.* (1) Undeliverable fourth-class mail will be returned to the sender or sender's representative, unless parcel is marked by sender "Treat as Abandoned", and postage at the fourth-class rate will be collected on delivery. (See § 25.1 of this chapter.) Before dispatch, compute and mark the amount of postage on each piece at the applicable rate between the office of last address and the office to which returned.

(2) When a piece which has been forwarded is undeliverable, return it to the sender. Collect from the sender postage for return plus any additional charges due.

(3) If addressee of an ordinary fourth-class parcel refuses to accept it, return the parcel immediately to sender, rated for collection of return postage plus any additional charges due, unless it bears instructions of the sender for other disposition.

(4) If effort has been made to deliver a piece addressed for local delivery, do not return it to the sender without payment of return postage.

(5) When fourth-class mail bearing a postage meter stamps or postmark is received unaddressed and without return address, open it to obtain the name and address of addressee or sender, if possible. If delivery is not made return the parcel to the mailing office, provided it bears a postage meter stamp affixed by a private meter user who can be identified by the meter number or if the name of the sender has been ascertained.

(6) Undeliverable fourth-class mail having the words "Return Requested" printed or handstamped thereon will be returned to the sender endorsed to show the addressee's new address or reason for nondelivery and fourth-class postage will be collected on delivery. (See § 25.1 of this chapter.)

NOTE: The corresponding Postal Manual sections are 158.24 and 158.25.

VI. Section 48.3 *Return address required* is amended to read as follows:

§ 48.3 Return address required.

The return address of the sender must be shown on the address side of mail to secure its return. The following rules apply:

(a) The proper location is in the upper left corner on envelopes, cards, labels, tags, or wrappers. On second-class mail the sender must print "Return Postage Guaranteed" on the envelope or wrapper or on one of the outside covers of unwrapped copies and must be immediately preceded by the sender's name and address.

(b) The sender may in his return address request that mail be held for not less than 3 days or more than 30 days. Examples:

Return in 30 days to Frank B. White 2416 Front Street St. Louis 25, Mo.	Return in 3 days to Frank B. White 2416 Front Street St. Louis 25, Mo.

(c) Requests to lengthen or shorten retention periods specified by sender to not less than 3 nor more than 30 days will be honored only at the sender's and not addressee's request.

(d) On third-class mail the sender must place "Return Requested" above or below the return address. Example:

Frank B. White
Company
2416 Front Street
St. Louis 25, Mo.
Return Requested

NOTE: The corresponding Postal Manual section is 158.3.

VII. Section 48.4 *Notice to sender on third- and fourth-class mail* is deleted; and §§ 48.5, 48.6, 48.7, and 48.8 are redesignated as §§ 48.4, 48.5, 48.6, and 48.7.

NOTE: The corresponding Postal Manual sections are 158.4, 158.5, 158.6, 158.7.

VIII. In the new designated § 48.5 *Disposal of undeliverable mail,* amend paragraph (d) to read as follows:

§ 48.5 Disposal of undeliverable mail.

* * * * *

(d) Third-class mail of no obvious value and not bearing "Return Requested" is disposed of as waste.

NOTE: The corresponding Postal Manual section is 158.5.

(R.S. 161, as amended, 396, as amended; secs. 1, 2, 64 Stat. 210, sec. 12, 65 Stat. 676, as amended; 5 U.S.C. 22, 369, 39 U.S.C. 246f, 278a, 278b)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 60-7564; Filed, Aug. 15, 1960; 8:45 a.m.]

DEPARTMENT OF LABOR

Bureau of Employment Security

[20 CFR Part 602]

SYMBOL OF IDENTIFICATION FOR STATE EMPLOYMENT SERVICES

Notice of Proposed Rule Making

Pursuant to authority contained in section 12, 48 Stat. 117, as amended, 29 U.S.C. 49k, it is proposed that paragraph (a) of § 602.12 be amended as set forth below. The purpose of the amendment is to substitute a uniform symbol for use on official signs, stationery, and documents identifying the cooperating state employment service with the national system of employment offices in lieu of the present requirement of a literal expression of affiliation with the United States Employment Service. The proposal is based on a reappraisal, in the light of administrative experience, of the relative efficacy of the two devices to achieve their purposes.

It is also proposed that this amendment shall become effective one month after final notice of its adoption appears in the FEDERAL REGISTER.

Any person interested in the proposed amendment may file a written statement of data, views, or arguments with the Secretary of Labor within 15 days after this proposal is published in the FEDERAL REGISTER.

§ 602.12 Organization.

(a) *Official identification.* The official name of the statewide system of public employment offices and the name on all official signs, stationery, and documents used in connection with the statewide system of public employment offices shall be "——— State Employment Service". To associate the State Employment Service and its local offices with the nationwide public employment service system in each instance where this name appears on official signs, stationery, and documents, there shall also appear (in appropriate size) the following symbol of identification:

PUBLIC EMPLOYMENT SERVICE
SERVICE FOR EVERYONE
LOCAL • STATE • NATIONAL

Signed at Washington, D.C., this 6th day of August 1960.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 60-7562; Filed, Aug. 15, 1960; 8:45 a.m.]

Division of Public Contracts

[41 CFR Part 50–202]

ELECTRON TUBES AND RELATED PRODUCTS INDUSTRY

Tentative Determination of Prevailing Minimum Wages

A complete record of proceedings under sections 1 and 10 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 and 45a) to determine the prevailing minimum wages for persons employed in the electron tubes and related products industry has been certified by the hearing examiner. The record, including findings of fact, conclusions of law and supporting arguments proposed by the parties, has been fully considered. A tentative decision, including a statement of findings and conclusions, as well as the reasons and basis therefor, on all material issues of fact, law, or discretion presented on the record, and any proposed wage determination is now appropriate under the rules of practice, 41 CFR 50–203.21(b), and the Administrative Procedure Act (5 U.S.C. 1007(b)).

Definition. The notice of hearing defined the electron tubes and related products industry as that industry which manufactures or furnishes electron tubes and related products, including the following products and/or parts specially designed for incorporation therein: Radio and television receiving type tubes, including cathode ray tubes manufactured from re-worked glass envelopes; transmitting, industrial, and special-purpose tubes, including high vacuum and vapor rectifier modulated tubes, thyratrons, magnetrons, klystrons, velocity modulated tubes, photo tubes, cathode ray tubes, and geiger-mueller tubes; and solid-state semiconductor devices. The following products are specifically excluded: (1) Gas-filled tubes used for illumination, such as glow lamps and strobotrons; (2) X-ray tubes and rectifier tubes specially designed for use in X-ray equipment; and (3) the following types of parts: metal stampings, getters, lead wires, and any part made exclusively of glass, plastics, germanium, silicon, ceramics, mica, graphite, or rubber.

Certain amendments to this proposed definition were recommended at the hearing in order to express the intendment more accurately. The word "modulated" appearing after the word "rectifier" is deleted so that this phrase reads, "including high vacuum and vapor rectifier tubes". The word "modulated" has no proper place in identifying these types of tubes. In the same sentence, the comma following the word "klystrons" is deleted and the words "and other" substituted, so that this phrase reads, "thyratrons, magnetrons, klystrons and other velocity modulated tubes". This substitution is made because a klystron tube is another velocity modulated tube. Finally, the exclusionary clause is changed to read: "(1) Gas-filled tubes used for illumination; (2) glow lamps and strobotrons; (3) X-ray tubes and rectifier tubes specially designed for use in X-ray equipment; and (4) the following types of parts: Metal stampings, getters, lead wires, and any part made exclusively of glass, plastics, germanium, silicon, ceramics, mica, graphite, or rubber." A separate group is made of "glow lamps and strobotrons," because they are used in testing and indicating devices, rather than for illumination.

The only area of substantial controversy regarding the definition which has developed in these proceedings concerns television picture tubes. The labor groups support the definition as proposed, but had reservations concerning the inclusion of rebuilt tubes. The management group would either exclude all of them, because there has been no showing of purchases of them subject to the Act or include those manufactured from reworked glass envelopes if the new ones are included.

Generally, the mere fact that the Government has not yet purchased one group of the products of an industry in sufficient quantity to result in contracts subject to the Act has not been regarded as adequate reason to exclude them from the industry for which a determination is to be made, particularly after wage data have been collected. Here, however, a determination for television picture tubes would require resolution of the unusually difficult question whether those made from reworked glass envelopes should be included. The reworked ones differ from new ones in almost every characteristic which is significant in the process of prevailing minimum wage determination under the Act. They are made in many small establishments whereas new ones are made in a few large establishments. The minimum wages paid in the establishments where they are made average much lower than the minimum wages in establishments making the new ones. Their distribution is confined to relatively small areas surrounding the plant of manufacture, whereas there is industry-wide competition in marketing the new ones. On the other hand, the ones made from reworked glass envelopes are in strong competition with the new ones in the very substantial picture tube replacement market.

The form of the wage data in evidence here permits the separation of those relating to the manufacture of television picture tubes from the remainder. Such manufacture is also segregated in a four digit industry code number in the Standard Industrial Classification Manual, separate from the remainder of the industry as it is defined here. In view of the extraordinarily difficult question relating to the reworked glass envelopes that would have to be resolved in any determination for television picture tubes here, the relative unimportance of any such determination in the administration of the Act, the fact that the data in evidence permit determination for the remainder of this industry with these products excluded, and the fact that this may be accomplished without departure from standard industrial classification, I have decided to omit all television picture tubes from this tentative determination.

Product division. The next controversy encountered in proceeding to a determination of prevailing minimum wages for this industry results from the contention of the management group that separate determination be made for solid-state semiconductor devices and the contention of the labor groups that there be no product division.

The solid-state semiconductors are competitive with the receiving type electron tubes in the broad sense that a complete receiving device may be made of either. They are not competitive, however, in that one may not be substituted for another in an existing circuit. They are classified in separate four digit industry code numbers in the Standard Industrial Classification Manual. Though there was conflicting evidence concerning skills required in the lowest labor grade, I find that greater skill is required in assembling electron tubes. This finding is based on the uncontroverted facts (1) that most of the test failures of electron tubes are occasioned by human error in manufacture, whereas hardly any of such failures in semiconductors are so occasioned, and (2) the parts which must be assembled in the manufacture of electron tubes are observably very fragile, whereas those assembled in the manufacture of solid-state semiconductor devices, though small, are more rigid. There is a substantial overlap in employment in the manufacture of different types of electron tubes, whereas there is relatively little such overlap in employment between tubes and solid-state semiconductor devices. Finally, there is a substantial difference in the level of minimum wages prevalent in the manufacture of electron tubes and solid-state semiconductor devices. A balance of these several considerations leads me to conclude that the purpose of these proceedings would be better served by separate determinations for electron tubes and solid-state semiconductor devices.

Locality. The notice of hearing informed interested persons that they could appear at the hearing and submit evidence, views and arguments as to whether a single determination for all the area in which the industry operates or separate determinations for smaller geographic areas (including the appropriate limits for such areas) should be determined for this industry. The management group proposes regional determinations, while the labor groups oppose any geographic division.

The Wage and Hour and Public Contracts Divisions of this Department prepared tables reflecting distribution of bids for, and awards of, unclassified government contracts for the purchase of electron tubes and related products in excess of $10,000. These data clearly indicate that competition is industry-wide, both for electron tubes and solid-state semiconductor devices. The tables analyze shipments to the government on contracts of the Air Force, Army, Navy and other agencies. The invitations to bid obliged the successful bidder to deliver to any point or points within the continental United States that may be designated by the procuring agency during the term of the contract without any adjustment in the contract price. As the government destinations used were distributed all over the nation, and as the bids and awards are made without binding specification concerning place of delivery, no manufacturer's location would exclude him from the competition. Table 2 of the exhibit, based on files of Gentile Air Force Base and Navy Great Lakes Electronic Supply Office, shows that both for electron tubes and solid-state semiconductor devices, during the fiscal year 1958 chosen for examination, successful bids were received from each of the four geographical areas into which the table divides the country, for delivery into all of these four areas. For example, of New England's 1232 successful bids, approximately 12 percent were destined for New England; while the Middle Atlantic received 13 percent; the West, 33 percent; and the "rest of the United States", 42 percent.

Industry has attacked this exhibit on such grounds as the absence of a showing of dollar value of awards, the fact that bids for shipment from one region to another may be explained by the use of a multi-region bidding system, and th: use of a central delivery point by one of the government agencies. Whatever the precise reasons which made for interregional competition, it cannot be denied that such competition is indeed widely across regional boundaries. This same method of tabulating the bids by numbers of successful bids rather than by dollar value was used in the textile, woolen and worsted, and electric lamp determinations, each of which withstood the test of judicial review challenging its industry-wide characteristic.

Under all these circumstances, separate determinations for separate geographic areas would not accord with the purposes of the Act, and I find that the locality in which the materials, supplies, articles, or equipment are to be manufactured or furnished under contracts subject to the Act in the electron tubes and related products industry is all that area in which the industry has its establishments.

Prevailing minimum wages. The Bureau of Labor Statistics conducted a survey of the establishments within the industry for the payroll period nearest June 30, 1958. Questionnaires were sent to 420 establishments thought possibly to operate within this industry, based on lists obtained from the state unemployment compensation agencies, public contracts awards for calendar year 1956, and the Electronic Industries Association. After receiving responses, it was determined that 100 establishments were actually within the scope of the survey, excluding those specializing in television picture tubes. These establishments employed 78,911 workers, 54,595 of whom were "covered", because they would be entitled to the protection of any determination made here when engaged in work subject to the Act.

Before making minimum wage determinations, it is necessary to decide whether a tolerance will be provided for beginners. If one is to be provided, the prevailing minimum wages for other employees should be determined from the tables which exclude beginners. If no tolerance is provided for beginners, however, the prevailing minimum wages for application to all covered employees must be found in the data which include the wages paid all covered employees.

Separate wage data were obtained in the Bureau of Labor Statistics' survey for workers classified as beginners or probationary workers, defined as new plant employees hired at rates lower than those established for a specific job during the period of time required to receive orientation or initial training for that job. Only 22 establishments in the electron tubes group employed 325 workers so classified, while semiconductor establishments employed 107 workers as beginners during the payroll period surveyed. Both the labor and management groups agree there should be no tolerance for beginners and probationary workers due to the scarcity of employment of such workers at special wage rates. This concurrence of the parties appears to be soundly based, and no tolerance for beginners and probationary workers will be provided. Apprentices and handicapped workers may, of course, be employed at special rates as provided in the general regulations (41 CFR 50-202.1102 and 50-202.1103).

The management group would have me base the determinations on the lowest established rate tables, whereas the labor groups favor the tables of lowest wages actually paid. Management has emphasized, correctly, that the lowest rate actually paid in a particular plant may fluctuate from one period to another, according to whether any person has been hired in the lowest labor grade within the period required for an employee to complete his service at the lowest wage rate in that grade. Such a plant may have legitimate use for a lower wage rate for persons to be employed than it was actually paying at the time of the wage survey without reducing its existing wage structure. But even if the prevailing wages were determined from a table of lowest established wages, some plant would presumably find itself in precisely the situation to which the management group calls attention. The problem then is which table presents minimum wages at a level more nearly representative of the industry as a whole at any one time. The industry expert testifying to this point conceded that the established minimum wage tables present wages at a lower level than are likely to characterize the wages actually paid in the industry at any one time. In view of this fact, and the additional fact that some of the established wages which are lower than wages actually paid are not shown to have been paid sufficiently recently to give reasonable assurance that they will actually be used in future employments, this tentative determination will endeavor to identify the prevailing minimum wages from the tables presenting data as to wages actually paid in the industry.

The actual rates which the parties recommend from the Bureau of Labor Statistics tables are not particularly enlightening at this point, in view of the tentative decision deviating from the management group's recommendations concerning established minimum wages and geographic divisions and the labor groups' recommendation concerning the definition of the industry and the question of product divisions. Basically, however, a conflict remains on the question of the statistical technique which should be used on any of the several tables of minimum wages to identify the prevailing one. As no particular minimum wage in any of the tables is paid by a sufficient portion of the industry to have substantially superior force or influence on that account alone, each of the contending groups recommends a statistical approach which is a measure of the central tendency of all of the minimum wages on the table to which it addresses itself. There is substantial merit in each of the approaches recommended, and they are not far apart.

The tables each list the several minimum wages in order from the lowest to the highest and indicate for each the number of plants and the total covered worker employment in the plants which observe that minimum wage. The industry group divides the industry on such a list evenly both by number of plants and plants weighted in accordance with their employment. It finds two prevailing minimum wages according to these two types of divisions, and takes the position that the "indicated" prevailing minimum wage based on standards used in previous determinations is at the midpoint between the two. This approach indicates a determination of \$1.44½ per hour as the prevailing minimum wage for the electron tubes branch and \$1.33 per hour as the prevailing minimum wage for the solid-state semiconductor branch. The labor groups restrict their analysis to the division of the plants in accordance with their employment, which yields \$1.49 for the electron tubes branch and \$1.35 for the solid-state semiconductor branch. As no plant in the solid-state semiconductor branch has a minimum wage at any point between the two criteria which the industry group finds significant, I am inclined to adopt the recommendation of the union groups for this branch and find the prevailing minimum wage from the Bureau of Labor Statistics survey to be \$1.35 per hour. No plant in the electron tubes branch has a minimum wage exactly at the midpoint recommended by the management group, but minimum wages are found at \$1.42 and \$1.45. As the question whether to determine the minimum wages separately for these two groups necessitated a choice between opposing considerations, I am inclined to favor the \$1.42 rate as the one which minimizes the discrepancy required by my choice.

There remains for consideration the question whether the evidence justifies an adjustment for wage changes since the June 1958 survey date. The Bureau of Labor Statistics supplemented the original survey with data concerning changes from June 1958 to September 1958. There were increases ranging from 0.5 cent an hour through 20 cents an hour. Out of a total of 72 establishments with 42,212 covered workers in the electron tubes branch, 63.9 percent of the plants with 58 percent of the covered workers reported no wage increase during this period. Of the semiconductor branch, with 28 establishments and 12,383 covered workers, 64.3 percent of the establishments with 71 percent of the covered workers did not report a wage increase during this period. The unions submitted lists totaling some thirty-odd wage increases, but less than one-third of them were legitimate additions to the list of 36 in the Bureau of Labor Statistics supplementary wage survey. An examination of the average hourly earnings in the manufacture of radio receiving and transmitting tubes (S.I.C. 3662) from June 1958 through February 1959 shows an increase of 7 cents. This classification includes television picture tubes which I have found it appropriate to exclude from this determination, and excludes other products which are included by the definition of this industry. I do not find that the evidence presented by the unions and the Bureau of Labor Statistics' supplementary survey establishes that there has been a wage increase in the majority of plants or the plants employing a majority of the employees. The average hourly earnings series, due to its incomparability to this industry either as to the separate products determinations or on a combined basis, does not present an adequate substitute. I, therefore, find that the prevailing minimum wage for persons employed in the electron tubes branch of this industry is $1.42 an hour, and the prevailing minimum wage for persons employed in the semiconductor devices branch of this industry is $1.35 an hour.

Proposed determination. Accordingly, upon the findings and conclusions stated herein, pursuant to authority under the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U.S.C., sec. 35 et. seq.), and in accordance with the Administrative Procedure Act (60 Stat. 237; 5 U.S.C. 1001), notice is hereby given that I propose to amend Title 41 of the Code of Federal Regulations, Part 50-202, by the addition of § 50-202.58 (41 CFR Part 50-202) to read as follows:

§ 50.202-58 Electron tubes and related products industry.

(a) *Definition.* The electron tubes and related products industry is defined as that industry which manufactures or furnishes electron tubes and related products including the following products and/or parts specially designed for incorporation therein: Radio and television receiving type tubes; transmitting, industrial, and special-purpose tubes, including high vacuum and vapor rectifier tubes, thyratrons, magnetrons, klystrons and other velocity modulated tubes, photo tubes, cathode ray tubes, and geiger-mueller tubes; and solid-state semiconductor devices. The following products are specifically excluded: (1) Gas-filed tubes used for illumination; (2) glow lamps and strobotrons; (3) X-ray and rectifier tubes specially designed for use in X-ray equipment; (4) the following types of parts: Metal stampings, getters, lead wires, and any part made exclusively of glass, plastics, germanium, silicon, ceramics, mica, graphite, or rubber; and (5) television receiving type cathode ray tubes.

(b) *Minimum wages.* (1) The minimum wage for persons employed in the manufacture or furnishing of solid-state semiconductor devices under contracts subject to the Walsh-Healey Public Contracts Act shall be not less than $1.35 per hour arrived at either on a time or piece rate basis.

(2) The minimum wage for persons employed in the manufacture or furnishing of products of the electron tubes and related products industry, except solid-state semiconductors, under contracts subject to the Walsh-Healey Public Contracts Act shall be not less than $1.42 per hour arrived at either on a time or piece rate basis.

(c) *Effect on other obligations.* Nothing in this section shall affect any obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this section.

Within thirty days from the day of the publication of this notice in the FEDERAL REGISTER, interested parties may submit written exceptions to this tentative decision. Exceptions should be addressed to the Secretary of Labor, United States Department of Labor, Washington 25, D.C.

Signed at Washington, D.C., this 10th day of August 1960.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 60-7630; Filed, Aug. 15, 1960; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition for Establishment of Tolerance for Residues of Sodium o-Phenylphenate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition has been filed by The Dow Chemical Company, Midland, Michigan, proposing the establishment of a tolerance of 15 parts per million for residues of sodium *o*-phenylphenate expressed as *o*-phenylphenol, in or on sweetpotatoes.

The analytical method proposed in the petition for determining residues of o-phenylphenol is a modification of that described in the FEDERAL REGISTER of November 13, 1959 (24 F.R. 9240), involving steam distillation of an acidified sample and the colorimetric determination of *o*-phenylphenol content by the 4-aminoantipyrine method.

Dated: August 9, 1960.

[SEAL] ROBERT S. ROE,
Director, Bureau of Biological and Physical Sciences.

[F.R. Doc. 60-7640; Filed Aug. 15, 1960; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Disposal at Sea

The following proposed amendment would establish design and packing criteria for containers used for disposal into the sea of licensed low-level waste byproduct, source and special nuclear materials. The proposed criteria published below are in general agreement with the criteria previously used in evaluating applications for licenses to dispose of waste radioactive materials in the oceans. Notice is hereby given that adoption of the following amendment is contemplated. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendment should send them to the U.S. Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation, within 60 days after publication of this notice in the FEDERAL REGISTER. The following new § 20.306 is added:

§ 20.306 Disposal at sea.

(a) No licensee shall dispose of licensed material at sea except as specifically approved by the Commission pursuant to § 20.302 and paragraph (b) of this section.

(b) No license shall be issued for the disposal of licensed material at sea unless, in addition to the information required pursuant to § 20.302 and any other relevant rule, regulation or order of the Commission, there has been submitted information sufficient to provide reasonable assurance that the proposed sea disposal containers when prepared for disposal:

(1) Will have an average density of at least 10 pounds per gallon to give assurance that the container will sink in sea water;

(2) Will maintain their integrity and prevent the escape of licensed materials in descending to a depth of at least 1,000 fathoms;

(3) Will be filled so as to eliminate the existence of voids, as far as possible. Where significant void spaces are unavoidable, containers shall be equipped with suitable pressure equalization de-

vices to allow water to enter but not to allow waste materials to escape during descent.

(c) The requirements of paragraph (b) of this section shall not be applicable to the disposal of radioactive metal when it is shown that the metal will sink to 1,000 fathoms.

(d) The Commission may issue orders to persons holding licenses authorizing the ocean disposal of radioactive wastes requiring them to take appropriate steps to assure that their activities under such licenses comply with requirements of this section.

Dated at Germantown, Md., this 8th day of August 1960.

For the Atomic Energy Commission.

R. E. HOLLINGSWORTH,
Acting General Manager.

[F.R. Doc. 60-7614; Filed, Aug. 15, 1960; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 60-55]

EQUIPMENT, INSTALLATIONS, OR MATERIALS AND CHANGE IN ADDRESS OF MANUFACTURER

Approvals and Termination of Approvals

1. Various items of lifesaving, firefighting, and miscellaneous equipment, installations, and materials used on merchant vessels subject to Coast Guard inspection or on certain motorboats and other pleasure craft are required by law and various regulations in 46 CFR Chapter I to be of types approved by the Commandant, United States Coast Guard. The procedures governing the granting of approvals and termination of approvals are set forth in 46 CFR 2.75-1 to 2.75-50, inclusive. For certain types of equipment, installations, and materials specifications have been also prescribed by the Commandant and are published in 46 CFR Parts 160 to 164, inclusive (Subchapter Q—Specifications).

2. By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), 167-14, dated November 26, 1954 (19 F.R. 8026), 167-20, dated June 18, 1956 (21 F.R. 4894), CGFR 56-28, dated July 24, 1956 (21 F.R. 5659), and 167-38, dated October 26, 1959 (24 F.R. 8857), and R.S. 4405, as amended, 4462, as amended, 4488, as amended, 4491, as amended, sections, 1, 2, 49 Stat. 1544, as amended, section 17, 54 Stat. 166, as amended, section 3, 54 Stat. 346, as amended, and section 3, 70 Stat. 152 (46 U.S.C. 405, 416, 481, 489, 367, 526p, 1333, 390b), and section 3(c) of 68 Stat. 675 (50 U.S.C. 198), and implementing regulations in 46 CFR Chapter I:

It is ordered, That:

a. All the approvals listed in Part I of this document which extend approvals previously published in the FEDERAL REGISTER are prescribed and shall be in effect for a period of 5 years from their respective dates as indicated at the end of each approval, unless sooner canceled or suspended by proper authority; and

b. All the other approvals listed in Part I of this document (which are not covered by paragraph a above) are prescribed and shall be in effect for a period of 5 years from the date of publication of this document in the FEDERAL REGISTER, unless sooner canceled or suspended by proper authority; and

c. All the approvals listed in Part II of this document are terminated because the approvals have expired. Notwithstanding this termination of approval of any item of equipment as listed in Part II of this document, such equipment in service may be continued in use so long as such equipment is in good and serviceable condition.

d. The change in address of a manufacturer shall be made as indicated in Part III of this document.

PART I—APPROVALS OF EQUIPMENT INSTALLATIONS OR MATERIALS

LIFE PRESERVERS, BALSA WOOD (JACKET TYPE) MODELS 42 AND 46

Approval No. 160.004/5/0, Model 42, adult balsa wood life preserver, U.S.C.G. Specification Subpart 160.004, manufactured by Noble Products Co., Box 327, Caldwell, Ohio. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.004/6/0, Model 46, child balsa wood life preserver, U.S.C.G. Specification Subpart 160.004, manufactured by Noble Products Co., Box 327, Caldwell, Ohio. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

BUOYS, LIFE, RING, CORK OR BALSA WOOD

Approval No. 160.009/37/1, 30-inch balsa wood ring life buoy, dwg. No. 5-10-51, revised April 15, 1955, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Ave., Brooklyn 1, N.Y. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS

Approval No. 160.011/28/1, M-S-A O_2 Mask with Cleartone Speaking Diaphragm, Part No. B-75500, or M-S-A O_2 Mask with Clearvue Facepiece Assembly and Cleartone Speaking Diaphragm, Part No. B-83816, self-contained one-half hour compressed oxygen breathing apparatus, at least one extra fully charged cylinder of oxygen to be included as part of the complete unit, Bureau of Mines Approval No. BM-1309, MSA assembly dwg. Nos. B-75500, Rev. 3 dated January 7, 1960, or B-83816, Rev. 5 dated April 11, 1960, manufactured by Mine Safety Appliances Co., 201 N. Braddock Ave., Pittsburgh 8, Pa. (Supersedes Approval No. 160.011/28/0 published in FEDERAL REGISTER December 17, 1959.)

Approval No. 160.011/29/1, M-S-A Air Mask with Cleartone Speaking Diaphragm, Part No. 75196, or M-S-A Air Mask with Clearvue Facepiece Assembly and Cleartone Speaking Diaphragm, Part 83815, self-contained one-half hour compressed air breathing apparatus, at least one fully charged cylinder of breathing air to be included as part of the complete unit, Bureau of Mines Approval No. BM-1310, MSA assembly dwg. Nos. B-75196, Rev. 3 dated January 7, 1960, or B-83815, Rev. 5 dated April 4, 1960, manufactured by Mine Safety Appliances Co., 201 N. Braddock Ave., Pittsburgh 8, Pa. (Supersedes Approval No. 160.011/29/0 published in FEDERAL REGISTER December 17, 1959.)

WINCHES, LIFEBOAT

Approval No. 160.015/82/0, Type P-62-S lifeboat winch for use with Type G-62-P davit; approval is limited to mechanical components only and for a maximum working load of 6,250 pounds pull at the drums (3,125 pounds per fall), identified by sectional view dwg. No. 3785-3, Rev. A, dated April 29, 1960, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N.J.

CONTAINERS, EMERGENCY PROVISIONS AND WATER

Approval No. 160.026/33/0, Container for emergency provisions, dwg. No. 113, dated April 13, 1960, and Specifications Nos. 113 C & 113 S.C., dated April 13, 1960, manufactured by Ash Jon Corporation, 257 Water St., Brooklyn 1, N.Y.

DAVITS

Approval No. 160.032/42/2, gravity davit, type 135, approved for maximum working load of 44,000 pounds per set (22,000 pounds per arm; 17,650 pounds taken by falls and 4,350 pounds taken by davit head) using 2-part falls, identified by arrangement dwg. No. 2227-35 dated April 24, 1952 and revised April 27, 1954, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N.J. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.032/164/0, gravity davit, Type G-62-P, for use with Type P-62-S lifeboat winch, approved for a maximum working load of 12,500 pounds per set (6,250 pounds per arm), using 2-part falls, identified by general arrangement dwg. No. 3785, Rev. A, dated April 29, 1960, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N.J.

LIFEBOATS

Approval No. 160.035/31/2, 12.0′ x 4.42′ x 1.92′ steel oar-propelled lifeboat, 6-person capacity, identified by construction and arrangement dwg. No. 3127 dated June 3, 1954, and revised May 31, 1960, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N.J. (Reinstates and supersedes Approval No. 160.035/31/1 terminated in FEDERAL REGISTER, December 17, 1959.)

Approval No. 160.035/262/1, 26.0′ x 8.33′ x 3.54′ steel, oar-propelled lifeboat, 46-person capacity, identified by construction and arrangement dwg. No. 26-6 dated February 3, 1949, and revised March 2, 1955, manufactured by Marine Safety Equipment Corp., Point Pleasant, N.J. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/23/0, Model CKS, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by The Safegard Corp., Box 66, Station B, Cincinnati 22, Ohio. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.047/24/0, Model AK, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa, for Hawkeye Sporting Goods Co., P.O. Box 613, Des Moines, Iowa. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.047/25/0, Model AK, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.047/26/0, Model AK, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Elvin Salow Co., 273-285 Congress St., Boston 10, Mass. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.047/27/0, Model CKM, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Elvin Salow Co., 273-285 Congress St., Boston 10, Mass. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.047/28/0, Model CKS, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Elvin Salow Co., 273-285 Congress St., Boston 10, Mass. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.047/29/0, Model CKM, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by The American Pad & Textile Co., Greenfield, Ohio, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago 7, Ill. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.047/30/0, Model CKS, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by The American Pad & Textile Co., Greenfield, Ohio, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago 7, Ill. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.047/31/0, Model CKM, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.047/32/0, Model CKM, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa, for Hawkeye Sporting Goods Co., P.O. Box 613, Des Moines, Iowa. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.047/33/0, Model CKS, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.047/34/0, Model CKS, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa, for Hawkeye Sporting Goods Co., P.O. Box 613, Des Moines, Iowa. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.047/423/0, Type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Bottom Dollar Industries, Inc., 715 Izard St., Little Rock, Ark., for Allgood Products Co., 824 West Eighth, Little Rock, Ark.

Approval No. 160.047/424/0, Type I, Model CKM-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Bottom Dollar Industries, Inc., 715 Izard St., Little Rock, Ark., for Allgood Products Co., 824 West Eighth, Little Rock, Ark.

Approval No. 160.047/425/0, Type I, Model CKS-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Bottom Dollar Industries, Inc., 715 Izard St., Little Rock, Ark., for Allgood Products Co., 824 West Eighth, Little Rock, Ark.

Approval No. 160.047/426/0, Type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Bottom Dollar Industries, Inc., 715 Izard St., Little Rock, Ark., for Herter's Inc., Waseca, Minn.

Approval No. 160.047/427/0, Type I, Model CKM-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Bottom Dollar Industries, Inc., 715 Izard St., Little Rock, Ark., for Herter's Inc., Waseca, Minn.

Approval No. 160.047/427/0, Type I, Model CKS-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Bottom Dollar Industries, Inc., 715 Izard St., Little Rock, Ark., for Herter's, Inc., Waseca, Minn.

Approval No. 160.047/435/0, Type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by The Howard Zink Corp., 5550 Paramount Blvd., Long Beach 5, Calif.

Approval No. 160.047/436/0, Type I, Model CKM-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by The Howard Zink Corp., 5550 Paramount Blvd., Long Beach 5, Calif.

Approval No. 160.047/437/0, Type I, Model CKS-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by The Howard Zink Corp., 5550 Paramount Blvd., Long Beach 5, Calif.

Approval No. 160.047/442/0, Type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Style-Crafters, Inc., P.O. Box 3277, Station A, Greenville, S.C., for Polyco, Inc., 312 Dobbs St., Marietta, Ga.

Approval No. 160.047/443/0, Type I, Model CKM-1, child kapok buoyant vest, U.S.C.G Specification Subpart 160.047, manufactured by Style-Crafters, Inc., P.O. Box 3277, Station A, Greenville, S.C., for Polyco, Inc., 312 Dobbs St., Marietta, Ga

Approval No. 160.047/444/0, Type I, Model CKS-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Style-Crafters, Inc., P.O. Box 3277, Station A, Greenville, S.C., for Polyco, Inc., 312 Dobbs St., Marietta, Ga.

BUOYANT CUSHIONS, KAPOK OR FIBROUS GLASS

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/3/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by The American Pad & Textile Co., Greenfield, Ohio. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.048/4/0, group approval for rectangular and trapezoidal fibrous glass buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of fibrous glass filling to be as per Table 160.048-4(c)(1)(ii), manufactured by The American Pad & Textile Co., Greenfield, Ohio. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.048/5/0, special approval for 14" x 17" x 2" rectangular ribbed-type kapok buoyant cushion, 21 oz. kapok, dwg. Nos. A-16 and B-245, dated February 15, 1955, manufactured by The American Pad & Textile Co., Greenfield, Ohio. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.048/6/0, special approval for 14" x 19" x 2" rectangular ribbed-type kapok buoyant cushion, 24 oz. kapok, dwg. Nos. A-15 and B-245, dated February 15, 1955, manufactured by The American Pad & Textile Co., Greenfield, Ohio. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.048/7/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.048/8/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa, for Hawkeye Sporting Goods Co., P.O. Box 613, Des Moines, Iowa. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.048/9/0, special approval for 13½" x 18" x 2" rectangular ribbed-type kapok buoyant cushion, 23 oz. kapok, dwg. No. 1, dated April 5, 1955, manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.048/10/0, special approval for 13½" x 18" x 2" rectangular ribbed-type kapok buoyant cushion, 23 oz. kapok, Iowa Fibre Products, Inc., dwg. No. 1, dated April 5, 1955, manufactured by Iowa Fibre Products, Inc., 2425 Dean Ave., Des Moines 17, Iowa, for Hawkeye Sporting Goods Co., P.O. Box 613, Des Moines, Iowa. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.048/76/1, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Ben-Sun Products Corp., 8th & Spring Garden Sts., Philadelphia, Pa. (Supersedes Approval No. 160.048/76/0 published in Federal Register July 17, 1956.)

Approval No. 160.048/143/1, special group approval for 15" x 2" x various lengths rectangular kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Massoud Marine Upholstery, Inc., 110 Manufacturing St., Dallas 7, Tex. (Supersedes Approval No. 160.048/148/0 published in FEDERAL REGISTER June 21, 1960.)

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.049/2/0, group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, U.S.C.G. Specification Subpart 160.049, sizes to be as per Table 160.049-4 (c)(1), manufactured by The American Pad & Textile Co., Greenfield, Ohio. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 160.049/3/0, group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, U.S.C.G. Specification Subpart 160.049, sizes to be as per Table 160.049-4 (c)(1), manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn 1, N.Y. (Extension of the Approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 160.049/32/0, group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, U.S.C.G. Specification Subpart 160.049, sizes to be as per Table 160.049-4 (c)(1), manufactured by Frontier Upholstering Co., Manistee, Mich.

LIFE RAFTS, INFLATABLE

Approval No. 160.051/1/0, inflatable life raft, 4-person capacity, identified by general arrangement dwg. No. SEC/MN/4001, Alt. 3, dated May 2, 1960, manufactured by Survival Equipment Corp., 27 Main St., San Francisco 5, Calif.

Approval No. 160.051/2/0, inflatable life raft, 6-person capacity, identified by general arrangement dwg. No. SEC/MN/6001, Alt. 3, dated May 2, 1960, manufactured by Survival Equipment Corp., 27 Main St., San Francisco 5, Calif.

Approval No. 160.051/3/0, inflatable life raft, 8-person capacity, identified by general arrangement dwg. No. SEC/MN/8001, Alt. 4, dated May 2, 1960, manufactured by Survival Equipment Corp., 27 Main St., San Francisco 5, Calif.

Approval No. 160.051/4/0, inflatable life raft, 10-person capacity, identified by general arrangement dwg. No. SEC/MN/10001, Alt. 4, dated May 2, 1960, manufactured by Survival Equipment Corp., 27 Main St., San Francisco 5, Calif.

Approval No. 160.051/5/0, inflatable life raft, 15-person capacity, identified by general arrangement dwg. No. SEC/MN/15001, Alt. 3, dated May 2, 1960, manufactured by Survival Equipment Corp., 27 Main St., San Francisco 5, Calif.

Approval No. 160.051/6/0, inflatable life raft, 25-person capacity, identified by general arrangement dwg. No. SEC/MN/25001, Alt. 2, dated May 2, 1960, manufactured by Survival Equipment Corp., 27 Main St., San Francisco 5, Calif.

Approval No. 160.051/10/0, inflatable life raft, 12-person capacity, identified by general arrangement dwg. No. SEC/MN/12001, Alt. 1, dated May 2, 1960, manufactured by Survival Equipment Corp., 27 Main St., San Francisco 5, Calif.

Approval No. 160.051/11/0, inflatable life raft, 20-person capacity, identified by general arrangement dwg. No. SEC/MN/20001, Alt. 1, dated May 2, 1960, manufactured by Survival Equipment Corp., 27 Main St., San Francisco 5, Calif.

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/8/0, unicellular plastic foam work vest as per Military Specification MIL-L-17653A and U.S.C.G. Specification Subpart 160.053, manufactured by The Safeguard Corp., Box 66, Station B, Cincinnati 22, Ohio.

Approval No. 160.053/9/0, unicellular plastic foam work vest as per Military Specification MIL-L-17653A and U.S.C.G. Specification Subpart 160.053, manufactured by The Safeguard Corp., Box 66, Station B, Cincinnati 22, Ohio, for Safety First Supply Co., 425 Magee St., Pittsburgh 19, Pa.

KITS, FIRST AID (FOR INFLATABLE LIFE RAFTS)

Approval No. 160.054/4/0, Model No. M-3 first aid kit for inflatable life rafts, dwg. dated February 13, 1960, manufactured by E. D. Bullard Co., 2680 Bridgeway, Sausalito, Calif.

FIRE PROTECTIVE SYSTEMS

Approval No. 161.002/2/0, DETECT-A-FIRE, Type 27020, Fire Alarm Thermostat, having temperature ratings of 140° F., 160° F., for use with approved closed-circuit type Fire Indicating and Alarm Systems. Approved as affording protection of an area where no point on the overhead is more than 17.5 feet from the thermostat except that the overhead on each side of beams over 12 inches in depth shall be considered as separate areas for the purpose of this space limitation; identified by drawing 27020-2, Rev. J/3 dated September 28, 1959, manufactured by Fenwal, Inc., Ashland, Mass.

Approval No. 161.002/3/0, DETECT-A-FIRE, Type 27021, Fire Alarm Thermostat, having temperature ratings of 140° F., 160° F., and 225° F., for use with approved open-circuit type Fire Indicating and Alarm Systems. Approved as affording protection of an area where no point on the overhead is more than 17.5 feet from the thermostat except that the overhead on each side of beams over 12 inches in depth shall be considered as separate areas for the purpose of this spacing limitation; identified by drawing 27021-2, Rev. J/4 dated September 28, 1959, manufactured by Fenwal, Inc., Ashland, Mass.

TELEPHONE SYSTEMS, SOUND POWERED

Approval No. 161.005/12/1, Sound powered telephone station, selective ringing, common talking, 19 station maximum, bulkhead mounting, splashproof, with internal hand generator bell, dwg. No. 1, Alt. 3, Type A, Model W, manufactured by Hose-McCann Telephone Co., Inc., 25th St. and 3rd Ave., Brooklyn 32, N.Y. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective March 25, 1960.)

Approval No. 161.005/15/1, sound powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, waterproof, with attached 3" or 4" hand generator bell, dwg. No. 5, Alt. 3, Type A, Model W.T., manufactured by Hose-McCann Telephone Co., Inc., 25th St. and 3rd Ave. Brooklyn 32, N.Y. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective May 10, 1960.)

Approval No. 161.005/16/1, sound powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, waterproof, with separately mounted 6" or 8" hand generator bell, dwg. No. 6, Alt. 3, Type A, Model W.T., manufactured by Hose-McCann Telephone Co., Inc., 25th St. and 3rd Ave., Brooklyn 32, N.Y. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective May 10, 1960.)

Approval No. 161.005/17/1, sound powered telephone station, selective ringing, common talking, 19 stations maximum, pedestal mounting, waterproof, with attached 6" or 8" hand generator bell, dwg. No. 8, Alt. 3, Type A, Model W.T.P., manufactured by Hose-McCann Telephone Co., Inc., 25th St. and 3d Ave., Brooklyn 32, N.Y. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective May 10, 1960.)

Approval No. 161.005/19/1, sound powered telephone station, selective ringing, common talking, 19 stations maximum, pedestal mounting, waterproof, with attached 6" or 8" hand generator bell, dwg. No. 12, Alt. 3, Type A, Model W.T.P.-1, manufactured by Hose-McCann Telephone Co., Inc., 25th St. and 3d Ave., Brooklyn 32, N.Y. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective May 10, 1960.)

FIRE EXTINGUISHERS, PORTABLE, HAND, CARBON-DIOXIDE TYPE

Approval No. 162.005/14/1, Alfite Speedex 5, 5-lb. carbon dioxide type hand portable fire extinguisher, assembly dwg. No. 28X-1934 dated March 15, 1955, nameplate No. 28X-2134 on dwg. No. 28X-2130, Alt. M. dated June 29, 1949 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by American LaFrance, Division of Sterling Precision Corp., Elmira, N.Y. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 162.005/47/0, Kidde Fyre-Freez Model 15F, 15-lb. carbon dioxide type hand portable fire extinguisher, assembly dwg. MS870369, Rev. A dated June 20, 1950, nameplate dwg. No. 270194, Rev. B dated March 9, 1951 (Coast Guard Classification: Type B, Size II; and Type C, Size II), manufactured by Walter Kidde & Company, Inc., Belleville 9, N.J. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 162.005/48/0, Kidde-Freez Model 10F, 10-lb. carbon dioxide type hand portable fire extinguisher, assembly dwg. No. MS870811, Rev. A dated June 10, 1952, name plate dwg. No. 270286, Rev. A dated June 11, 1952 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by Walter Kidde & Company, Inc., Belleville 9, N.J. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 162.005/49/0, Kidde Fyre-Freez Model 5F, 5-lb. carbon dioxide type hand portable fire extinguisher, assembly dwg. No. MS870390, Rev. A dated September 6, 1950, name plate dwg. No. 270204, Rev. C dated March 9, 1951 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by Walter Kidde & Company, Inc., Belleville, N.J. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 162.005/135/0, Power-Pak Model T-100 (Symbol GEN), 10-lb. carbon dioxide type hand portable fire extinguisher, assembly dwg. No. 10AKR-12281 dated May 17, 1960, name plate dwg. No. 10AKR-13061 dated May 3, 1960 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by The Fire Guard Corp., 1685 Shermer Rd., Northbrook, Ill., for Power-Pak Products, Inc., 43 Pearl St., Buffalo 2, N.Y.

Approval No. 162.005/136/0, Power-Pak Model No. T-150 (Symbol GEN), 15-lb. carbon dioxide type hand portable fire extinguisher, assembly dwg. No. 15AKR-12925 dated May 17, 1960, name plate dwg. No. 15AKR-13062 dated May 3, 1960 (Coast Guard Classification: Type B, Size II; and Type C, Size II), manufactured by The Fire Guard Corp., 1685 Shermer Rd., Northbrook, Ill., for Power-Pak Products, Inc., 43 Pearl St., Buffalo 2, N.Y.

FIRE EXTINGUISHERS, PORTABLE, HAND, SODA-ACID TYPE

Approval No. 162.007/61/0, Model SA-25 (Symbol GE, GEC, GEN, or GEP) 2½-gal. soda-acid type hand portable fire extinguisher, assembly dwg. No. 301, Rev. A dated May 1, 1957, name plate dwg. No. 6833 dated June 19, 1959 (Coast Guard Classification: Type A, Size II), manufactured by The General Fire Extinguisher Corp., 8740 Washington Blvd., Culver City, Calif., for Power-Pak Products, Inc., 43 Pearl St., Buffalo 2, N.Y.

FIRE EXTINGUISHERS, PORTABLE, HAND, WATER, CARTRIDGE OPERATED OR STORED PRESSURE TYPE

Approval No. 162.009/18/1, Elk-Air Model EASS, 2½-gal. stored pressure water type hand portable fire extinguisher, assembly dwg. No. C42787, Rev. A dated August 19, 1959, name plate dwg. No. B41410, Rev. D dated April 22, 1959 (Coast Guard Classification: Type A, Size II), manufactured by Elkhart Brass Mfg. Co., Inc., 1302 West Beardsley Ave., Elkhart, Ind.

Approval No. 162.009/39/0, Ansul Model WS-2½ (Symbol EL), 2½-gal. stored pressure water type hand portable fire extinguisher, assembly dwg. No. 5298, Rev. 1 dated July 7, 1959, name plate dwg. Nos. 5211, Rev. 2 dated March 26, 1958, and 5271, Rev. 1 dated April 2, 1958 (Coast Guard Classification: Type A, Size II), manufactured by Elkhart Brass Mfg. Co., Inc., 1302 W. Beardsley Ave., Elkhart, Ind., for Ansul Chemical Co., Marinette, Wis.

Approval No. 162.009/41/0, Kidde Model WSGC (Symbol GEP), 2½-gal. water cartridge operated type hand portable fire extinguisher, assembly dwg. No. IW-500-501, Rev. C dated July 7, 1958, name plate dwg. No. IW-500-5474, Rev. D dated April 13, 1960 (Coast Guard Classification: Type A, Size II), manufactured by The General Fire Extinguisher Corp., 8740 Washington Blvd., Culver City, Calif., for Walter Kidde & Co., Inc., Belleville 9, N.J.

FIRE EXTINGUISHERS, PORTABLE, HAND, DRY CHEMICAL TYPE

Approval No. 162.010/60/0, Redi-Flo Model DC-4C, 4-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. DC4C-0-57 dated June 10, 1958, name plate dwg. No. DC4C-11-57 revised December 1959 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by Stop-Fire, Inc., New Brunswick, N.J. (mailing address: P.O. Box 9, Monmouth Junction, N.J.)

Approval No. 162.010/61/0, Redi-Flo Model DC-5C, 5-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. DC5C-0-57 dated June 10, 1958, name plate dwg. No. DC5C-11-57, revised December 1959 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by Stop-Fire, Inc., New Brunswick, N.J. (mailing address: P.O. Box 9, Monmouth Junction, N.J.)

Approval No. 162.010/62/0, Redi-Flo Model DC10C, 10-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. DC10C-01-57 dated December 12, 1957, name plate dwg. No. DC10C-18-57, Rev. A dated April 28, 1960 (Coast Guard Classification: Type B, Size II; and Type C, Size II), manufactured by Stop-Fire, Inc., New Brunswick, N.J. (mailing address: P.O. Box 9, Monmouth Junction, N.J.)

Approval No. 162.010/63/0, Redi-Flo Model DC-15C, 15-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. DC10C-01-57 dated December 12, 1957, name plate dwg. No. DC15C-18-57 dated June 25, 1958 (Coast Guard Classification: Type B, Size II; and Type C, Size II), manufactured by Stop-Fire, Inc., New Brunswick, N.J. (mailing address: P.O. Box 9, Monmouth Junction, N.J.)

Approval No. 162.010/64/0, Redi-Flo Model DC-20C, 20-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. DC10C-01-57 dated December 12, 1957, name plate dwg. No. DC20C-18-57 dated June 25, 1958 (Coast Guard Classification: Type B, Size III; and Type C, Size III), manufactured by Stop-Fire, Inc., New Brunswick, N.J. (mailing address: P.O. Box 9, Monmouth Junction, N.J.)

Approval No. 162.010/65/0, Redi-Flo Model DC-25C, 25-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. DC10C-01-57 dated December 12, 1957, name plate dwg. No. DC25C-18-57 dated June 25, 1958 (Coast Guard Classification: Type B, Size III; and Type C, Size III), manufactured by Stop-Fire, Inc., New Brunswick, N.J. (mailing address: P.O. Box 9, Monmouth Junction, N.J.)

Approval No. 162.010/78/0, Ansul Model 5, 5-lb. dry chemical cartridge operated type hand portable fire extinguisher, assembly dwg. No. 6621, Rev. 10 dated May 11, 1960, name plate dwg. Nos. 6603 dated June 11, 1958, 6604, Rev. 4 dated July 21, 1959, and 7022 dated August 10, 1959 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by Ansul Chemical Co., Marinette, Wis.

Approval No. 162.010/90/0, Redi-Flo Model DC-30C, 30-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. DC10C-01-57 dated December 12, 1957, name plate dwg. No. DC30C-18-57 dated June 25, 1957 (Coast Guard Classification: Type B, Size IV; and Type C, Size IV), manufactured by Stop-Fire, Inc., New Brunswick, N.J. (mailing address: P.O. Box 9, Monmouth Junction, N.J.)

Approval No. 162.010/164/0, Model 2½ DCP (Symbol KI), 2½-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. 872799, Rev. A dated March 9, 1960, name plate dwg. No. 271590, Rev. C dated April 12, 1960 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by Walter Kidde & Co., Inc., Belleville 9, N.J., for American Fire Alarm Co., Inc., 909 NE. Davis St., Portland 12, Oreg.

Approval No. 162.010/166/0, Model CM-5 (Symbol GE, GEC, GEN, or GEP), 5-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. 5284, Rev. C dated June 5, 1958, name plate dwg. No. 6829 dated June 22, 1959 (Coast Guard Classification: Type B, Size I; and Type C Size I), manufactured by The General Fire Extinguisher Corp., 8740 Washington Blvd., Culver City, Calif., for Power-Pak Products, Inc., 43 Pearl St., Buffalo 2, N.Y.

Approval No. 162.010/167/0, Model CM-10 (Symbol GE, GEC, GEN, or GEP), 10-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. CP-10-5401, Rev. B dated March 1958, name plate dwg. No. 6830 dated June 22, 1959 (Coast Guard Classification: Type B, Size II; and Type C, Size II), manufactured by The General Fire Extinguisher Corp., 8740 Washington Blvd., Culver City, Calif., for Power-Pak Products, Inc., 43 Pearl St., Buffalo 2, N.Y.

Approval No. 162.010/168/0, Model CM-20 (Symbol GE, GEC, GEN, or GEP), 20-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. CP-20-5396, Rev. B dated March 1958, name plate dwg. No. 6831 dated June 22, 1959 (Coast Guard Classification: Type B, Size III; and Type C, Size III), manufactured by The General Fire Extinguisher Corp., 8740 Washington Blvd., Culver City, Calif., for Power-Pak Products, Inc., 43 Pearl St., Buffalo 2, N.Y.

Approval No. 162.010/169/0, Model CM-30 (Symbol GE, GEC, GEN, or GEP), 30-lb. dry chemical stored pressure type hand portable fire extinguisher assembly dwg. No. CP-30-5397, Rev. B dated March 1958, name plate dwg. No. 6832 dated June 22, 1959 (Coast Guard Classification: Type B, Size V; and Type C, Size V), manufactured by The General Fire Extinguisher Corp., 8740 Washington Blvd., Culver City, Calif., for Power-Pak Products, Inc., 43 Pearl St., Buffalo 2, N.Y.

Approval No. 162.010/170/0, Model V-2½ (Symbol RA), 2½-lb. dry chemical stored pressure type hand portable fire extinguisher, assembly dwg. No. 5305, Rev. 1, dated May 3, 1960, name plate dwg. No. 5376. Rev. 1 dated June 9, 1960 (Coast Guard Classification: Type B, Size I; and Type C, Size I), manufactured by Randolph Laboratories, Inc., 1450 Frontage Road, Northbrook, Ill., for Merlite Industries, Inc., 114 East 32d St., New York 16, N.Y.

VALVES, PRESSURE VACUUM RELIEF AND SPILL

Approval No. 162.017/79/0, Figure No. CG-AL-120, pressure only relief and spill valve, atmospheric pattern, weight-loaded poppets, aluminum alloy body and stainless steel poppets and fittings, dwg. No. CG-AL-120, dated March 2, 1955, approved for sizes 3″, 4″, 6″ and 8″, manufactured by the Mechanical Marine Co., Inc., 17 Battery Place, New York 4, N.Y. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.017/80/0, Figure No. CG-AL-130, pressure-vacuum relief valve, enclosed pattern, weight-loaded poppets, aluminum alloy body and stainless steel poppets and fittings, dwg. No. CG-AL-130, dated March 2, 1955, approved for sizes 3″, 4″, 5″, and 6″, manufactured by the Mechanical Marine Co., Inc., 17 Battery Place, New York 4, N.Y. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.017/88/0, Type AZ 150 pressure vacuum relief valve, enclosed pattern, fitted with pressure and vacuum unloader, weight-loaded poppets, bronze parts except monel screen, 6″ inlet, 6″ outlet, dwg. No. CN 7036, manufactured by Chr. Nielsens Eftf., Hoegh-Guldbergsgade 14, Horsens, Denmark.

SAFETY RELIEF VALVES, LIQUEFIED COMPRESSED GAS

Approval No. 162.018/32/1, Style JO-25, safety relief valve for liquefied petroleum gas and anhydrous ammonia service, full nozzle type metal-to-metal seat, 150 p.s.i. primary service pressure rating, dwg. No. HV-60, dated September 3, 1954, approved for inlet diameters of 1 inch through 6 inches for a maximum set pressure of 300 p.s.i.g., manufactured by Crosby Valve and Gage Co., Wrentham, Mass. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

Approval No. 162.018/33/1, Style JO-35 safety relief valve for liquefied petroleum gas and anhydrous ammonia service, full nozzle type metal-to-metal seat, 300 p.s.i. primary service pressure rating, dwg. No. HV-61, dated September 3, 1954, approved for inlet diameters of 1 inch through 6 inches for a maximum set pressure of 300 p.s.i.g., manufactured by Crosby Valve and Gage Co., Wrentham, Mass. (Extension of the approval published in FEDERAL REGISTER June 22, 1955, effective June 22, 1960.)

APPLIANCES, LIQUEFIED PETROLEUM GAS CONSUMING

Approval No. 162.020/28/2, Magic Chef Model No. GC-10 range for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 11-22-5.901 and Supplement Serial No. 13, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/29/2, Magic Chef Model GC-11 range for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 11-22-5.901 and Supplement Serial No. 13, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/30/2, Magic Chef Model No. GC-16 range for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 11-22-5.901 and Supplement Serial No. 13, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/42/2, Magic Chef Model No. GC-12 range for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 11-22-9.901 and Supplement Serial No. 7, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/43/2, Magic Chef Model No. GC-14 range for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 11-22-5.901 and Supplement Serial No. 13, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/44/2, Magic Chef Model No. GC-15 range for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 11-22-9.901 and Supplement Serial No. 7, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/46/1, Magic Chef Model No. GC-17 roast oven for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 11-22-28.901 and Supplement Serial No. 3, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/91/0, Magic Chef Model GR-28 range for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 1-689-3.801, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/92/0, Magic Chef Model No. GC-29A deep fat fryer for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 13-(18-1.0 and -1.1) .001, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/93/0, Magic Chef Model No. GC-29-AS deep fat fryer for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 13-(18-1.0 and -1.1) .001, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

Approval No. 162.020/94/0, Magic Chef Model No. GC-26 range for liquefied petroleum gas service, approved by the American Gas Association, Inc., under Certificate No. 11-22-5.901 and Supplement Serial Nos. 12 and 13, manufactured by Magic Chef, Inc., 4931 Daggett Ave., St. Louis 10, Mo. (Extension of the approval published in FEDERAL REGISTER May 7, 1955, effective May 7, 1960.)

FIRE EXTINGUISHERS, SEMIPORTABLE, DRY CHEMICAL TYPE

Approval No. 162.032/3/0, C-O-Two Type DCHU-150, 150-lb. dry chemical type semiportable fire extinguisher, Parts List No. 17 revised April 1, 1960, instruction plate dwg. No. C-5762, Rev. 5 dated May 18, 1960 (Coast Guard Classification: Type B, Size V; and Type C, Size V), manufactured by The Fyr-Fyter Co., 221 Crane St., Dayton 1, Ohio. (Newark Plant, P.O. Box 750, Newark 1, N.J.)

Approval No. 162.032/4/0, C-O-Two Type DCHU-300, 300-lb. dry chemical type semiportable fire extinguisher, Parts List No. 17 revised April 1, 1960, instruction plate dwg. No. C-5762, Rev. 5 dated May 18, 1960 (Coast Guard Classification: Type B, Size V; and Type C, Size V), manufactured by The Fyr-Fyter Co., 221 Crane St., Dayton 1, Ohio. (Newark Plant, P.O. Box 750, Newark 1, N.J.)

Approval No. 162.032/5/0, C-O-Two Type DCHU-500, 500-lb. dry chemical type semiportable fire extinguisher, Parts List No. 17 revised April 1, 1960, instruction plate dwg. No. C-5764, Rev. 4 dated May 17, 1960 (Coast Guard Classification: Type B, Size V; and Type C, Size V), manufactured by The Fyr-Fyter Co., 221 Crane St., Dayton 1, Ohio. (Newark Plant, P.O. Box 750, Newark 1, N.J.)

Approval No. 162.032/6/0, Kidde Model 200 DCPS, 200-lb. dry chemical stored pressure type semiportable fire extinguisher (P/N 891383 with 50' of hose; P/N 891384 with 100' of hose), assembly dwg. No. 891383, Rev. B dated February 24, 1960, name plate dwg. No. 271384, revised May 9, 1960 (Coast Guard Classification: Type B, Size V; and Type C, Size V), manufactured by Walter Kidde & Co., Inc., Belleville 9, N.J.

Approval No. 162.032/7/0, Kidde Model Dual 200 DCPS, 400-lb. dry chemical stored pressure type semiportable fire extinguisher (P/N 890549 with 50' hose; P/N 890554 with 100' of hose), assembly dwg. No. 890549, Rev. B dated July 27, 1959, name plate dwg No. 271420, revised May 9, 1960 (Coast Guard Classification: Type B, Size V; and Type C, Size V), manufactured by Walter Kidde & Co., Inc., Belleville 9, N.J.

STRUCTURAL INSULATION

Approval No. 164.007/31/0, "Cafco Blaze-Shield", sprayed asbestos fiber type structural insulation identical to that described in Underwriters Laboratories, Inc., Reports Nos. Retardant 3749-3 and 3749-4, dated May 8, 1958, Underwriters Laboratories of Canada Report No. Canadian Retardant 193, dated October 31, 1958, and National Bureau of Standards Test Report No. TG10210-2053; FP3550, dated March 10, 1960, approved for use without other insulating material to meet Class A-60 requirements in a 2" thickness and not less than 12 pounds per cubic foot density, manufactured by Columbia Acoustics and Fireproofing Co., Stanhope, N.J.

BULKHEAD PANELS

Approval No. 164.008/41/0, NAVILITE 42, TYPE K, asbestos cement board type bulkhead panel, identical to that described in National Bureau of Standards Test Report No. 6860, Project No. 1002-30-10628, dated June 1, 1960, approved as meeting Class B-15 requirements in a ⅞-inch thickness, 42 pounds per cubic foot density, manufactured by Dansk Eternit-Fabrik A/S, Aalborg, Denmark.

Approval No. 164.008/43/0, NAVILITE 36, TYPE Z, asbestos cement board type bulkhead panel, identical to that described in National Bureau of Standards Test Report No. 6860, Project No. 1002-30-10628, dated June 1, 1960, approved as meeting Class B-15 requirements in a ⅞-inch thickness, 36 pounds per cubic foot density, manufactured by Dansk Eternit-Fabrik A/S, Aalborg, Denmark.

Approval No. 164.008/45/0, NAVILITE 36, TYPE V, both sides HARD TOP veneered, asbestos cement board type bulkhead panel, identical to that described in National Bureau of Standards Test No. 6860, Project No. 1002-30-10628, dated June 1, 1960, approved as meeting Class B-15 requirements in a ¾-inch thickness inclusive of veneers, manufactured by Dansk Eternit-Fabrik A/S, Aalborg, Denmark.

Approval No. 164.008/47/0, NAVILITE 48, TYPE K, asbestos cement board type bulkhead panel, identical to that described in National Bureau of Standards Test Report No. 6860, Project No. 1002-30-10628, dated June 1, 1960, approved as meeting Class B-15 requirements in a ⅞-inch thickness, 48 pounds per cubic foot density, manufactured by Dansk Eternit-Fabrik A/S, Aalborg, Denmark.

INCOMBUSTABLE MATERIALS

Approval No. 164.009/61/0, 'Cafco Heat-Shield", sprayed asbestos fiber type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-2053: FP3550, dated March 10, 1960, approved in a density of not less than 9 pounds per cubic foot, manufactured by Columbia Acoustics and Fireproofing Co., Stanhope, N.J.

Approval No. 164.009/62/0, "Cafco Sound-Shield", sprayed asbestos fiber type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-2053:FP3550, dated March 10, 1960, approved in a density of not less than 20 pounds per cubic foot, manufactured by Columbia Acoustics and Fireproofing Co., Stanhope, N.J.

FIRE EXTINGUISHING SYSTEMS, FIXED

"General" Carbon Dioxide Marine Fire Extinguishing Systems, typical installation dwg. No. M 5810, Rev. A dated March 28, 1960, parts list dwg. No. M-5810-1 revised April 21, 1960, manufactured by The Fire Guard Corp., 1685 Shermer Rd., Northbrook, Ill., for The General Fire Extinguisher Corp., 8740 Washington Blvd., Culver City, Calif.

National Aer-O-Foam Marine Foam Fire Extinguishing Systems with 6% Foam Liquids, Instruction Sheet No. 620A revised June 6, 1960, manufactured by National Foam Systems, Inc., Union and Adams Sts., West Chester, Pa. (Supersedes Approval No. unnumbered, published in FEDERAL REGISTER December 17, 1959.)

PART II—TERMINATION OF APPROVALS OF EQUIPMENT, INSTALLATIONS OR MATERIALS

WINCHES, LIFEBOAT

Termination of Approval No. 160.015/27/2, Type B172N lifeboat winch; approval is limited to mechanical components and for a maximum working load of 18,000 pounds pull at the drums (9,000 pounds per fall), identified by General arrangement dwg. No. 2114-N dated December 1, 1941, and revised December 9, 1954, manufactured by Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., Perth Amboy, N.J. (Approved FEDERAL REGISTER June 22, 1955. Termination of approval effective June 22, 1960.)

BOILERS, HEATING

Termination of Approval No. 162.003/162/0, Model No. 16 cast iron hot water heater boiler, dwg. No. 122054A, maximum pressure 15 p.s.i., approval limited to bare boiler, manufactured by Elisha Webb & Son Co., 136 South Front St., Philadelphia 6, Pa. (Approved FEDERAL REGISTER May 7, 1955. Termination of approval effective May 7, 1960.)

Termination of Approval No. 162.003/163/0, Model No. 350A cast iron hot water heating boiler, dwg. No. 122154A, maximum pressure 15 p.s.i., approval limited to bare boiler, manufactured by Elisha Webb & Son Co., 136 South Front St., Philadelphia 6, Pa. (Approved FEDERAL REGISTER May 7, 1955. Termination of approval effective May 7, 1960.)

PART III—CHANGE IN ADDRESS OF MANUFACTURER

The address of Mariner Laminates, Inc., 501 Atlantic Ave., Freeport, N.Y., has been changed to 100 Lambert Ave., Copiague, L.I., N.Y., for Approval Nos. 160.010/51/0 & 160.010/52/0 for buoyant apparatus published in the FEDERAL REGISTER of 28 July 1959; 160.033/55/0 for mechanical disengaging apparatus published in the FEDERAL REGISTER of 27 September 1958; and 160.035/378/0 for lifeboat published in FEDERAL REGISTER of 17 December 1959.

Dated: August 8, 1960.

[SEAL] J. A. HIRSHFIELD,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 60-7646; Filed, Aug. 15, 1960; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The U.S. Forest Service has filed an application, Serial Number J-011213 for the withdrawal of the lands described below, from all forms of appropriation including the mining laws, the mineral leasing laws and laws pertaining to the disposition of materials. The applicant desires the land for an administrative site and recreation area.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 2511, Juneau, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

AUKE BAY AREA, JUNEAU

Beginning at M.C. 6, U.S.S. 1504;
thence east 1.53 chns. to Corner 5 U.S.S. 1504;
thence in a northerly direction along the Glacier Highway for a distance of approximately 6.00 chns. to Corner 3, U.S.S. 2664;
thence south 31°22′ west 3.245 chns. to M.C. 4 U.S.S. 2664;
thence meandering in a southerly direction along the line of mean high tide of the waters of Auke Bay a distance of approximately 3.50 chns. to M.C. 6, U.S.S. 1504 and the point of beginning to contain approximately 1.5 acres.

R. PAUL RIGTRUP,
Acting Operations Supervisor.

[F.R. Doc. 60-7629; Filed, Aug. 15, 1960; 8:47 a.m.]

Office of the Secretary

OUTER CONTINENTAL SHELF; ATLANTIC COAST AREA OFF GEORGIA

Geological and Geophysical Explorations

Pursuant to the notice issued by the Secretary of the Interior on September 17, 1953, concerning geological and geophysical explorations in the Outer Continental Shelf (18 F.R. 5667), a cooperative agreement has been entered into with the State Mineral Leasing Commission of the State of Georgia covering the protection and conservation of aquatic life. In accordance with the provisions of the said notice as supplemented by the cooperative agreement, any person, as defined in section 2(d) of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462), is hereby authorized to conduct geological and geophysical explorations in that part of the Outer Continental Shelf seaward of the submerged lands of the State of Georgia upon condition (1) that his operations shall be confined to such area or areas as may be designated and approved by the Regional Oil and Gas Supervisor of the United States Geological Survey, (2) that he has obtained appropriate permission for such explorations from the Corps of Engineers, Department of the Army, and (3) that, for the protection and conservation of aquatic life, he files with the said Regional Oil and Gas Supervisor and with the State Mineral Leasing Commission his stipulation agreeing to comply with the requirements of the regulations of the said Commission governing the methods and inspection of and restrictions upon geological and geophysical explorations in the submerged lands of the State of Georgia, which regulations are hereby adopted as the regulations of the Secretary of the Interior applicable to that part of the Outer Continental Shelf seaward of the submerged lands of the State of Georgia.

The enforcement of the regulations hereby adopted is delegated to the Regional Oil and Gas Supervisor of the United States Geological Survey, and he may accept the assistance of the State of Georgia in any enforcement of the said regulations. This general authorization to conduct geological and geophysical explorations does not include the right to conduct core or other exploratory drilling and is subject to termination upon not less than 60 days' notice published in the FEDERAL REGISTER, and the authorization to conduct such explorations may be terminated as to any person upon reasonable notice.

Dated: August 5, 1960.

ELMER F. BENNETT,
Acting Secretary of the Interior.

[F.R. Doc. 60-7521; Filed, Aug. 15, 1960; 9:22 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

AMERICAN PIONEER LINE ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 8322-1, between American Pioneer Line (United States Lines Company) and Pacific Far East Line, Inc., modifies a through billing arrangement between the carriers (No. 8322) in the trade from U.S. Atlantic ports to Wake Island, with transshipment at Honolulu, Hawaii. The purpose of the modification is to (1) include Midway, Kwajalein, and Eniwetok Islands within the scope of the agreement, (2) establish rates for handling at the aforementioned islands, and (3) increase the handling charge at Wake Island from $3.50 to $5.00 per ton.

(2) Agreement No. 8514, between Robin Line, Division of Moore-McCormack Lines, Inc., and Compagnie Des Messageries Maritime, covers a through billing arrangement in the trade between U.S. Atlantic ports and Madagascar, Mauritius, Reunion and the Comores Islands, with transshipment at Tamatave, Mombasa, Dar-es-Salaam or Durban.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: August 11, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-7635; Filed, Aug. 15, 1960; 8:48 a.m.]

SCHENKERS INTERNATIONAL, INC., ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act 1916 (39 Stat. 733, 46 U.S.C. 814):

	Agreement No.
Schenkers International, Inc., Chicago, Ill., with—	
R. G. Hobelmann & Co., Inc. (Baltimore)	8515
Wolf & Gerber (New York)	8517
Markley Export Corp. (Philadelphia)	8518
J. S. Lipinski Co. (Toledo, Ohio)	8519
Schenkers International Forwarders, Inc. (New York)	8522

Under these five agreements Schenkers International, Inc. will perform the necessary freight forwarding services on shipments moving through Chicago referred to it by the other party to the respective agreement.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreements, and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: August 11, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-7636; Filed, Aug. 15, 1960; 8:48 a.m.]

PAN AMERICAN SHIPPING CO. AND HENRY VILA, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 735, 46 U.S.C. 814):

Agreement No. 8521 between Pan American Shipping Co., of New Orleans, Louisiana and Henry Vila, Inc., of New York, New York, is a cooperative working arrangement under which the parties will perform freight forwarding services for each other.

Interested persons may inspect this agreement and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement, and their approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: August 11, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-7637; Filed, Aug. 15, 1960; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-9]

INDUSTRIAL WASTE DISPOSAL CORP.

Notice of Issuance of Byproduct Material License

Please take notice that pursuant to the "Opinion and Final Decision" of the Atomic Energy Commission dated June 22, 1960, in the matter of Industrial Waste Disposal Corporation, the Atomic Energy Commission has this date issued Byproduct Material License No. 42-4230-1 authorizing Industrial Waste Disposal Corporation, 5420 Calhoun Street, Houston, Texas, to receive, possess and store byproduct material and to transfer said material to Oak Ridge National Laboratory, Oak Ridge, Tennessee or to the National Reactor Testing Station, Idaho Falls, Idaho, for burial.

Dated at Germantown, Md., August 10, 1960.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[F.R. Doc. 60-7615; Filed, Aug. 15, 1960; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-4843 etc.]

ALBUQUERQUE ASSOCIATED OIL CO. ET AL.

Notice of Applications and Date of Hearing

AUGUST 8, 1960.

Albuquerque Associated Oil Company, Docket No. G-4843; American Petrofina Incorporated, and American Petrofina Company of Texas, Docket No. G-10496; Wasatch Corporation, Airfleets, Inc.; San Diego Corporation and Albuquerque Associated Oil Company, Docket No. G-10497; American Petrofina Company of Texas, Docket Nos. G-11506, G-14548 and G-14614.

The above applications have been filed pursuant to section 7 of the Natural Gas Act, for certificates of public convenience and necessity, authorizing the sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and amended for the substitution of parties, as hereinafter described, all as more fully represented in the respective applications, as amended, which are on file with the Commission and open to public inspection.

The application in Docket No. G-10496 was filed by Petro-Atlas Corporation (Petro-Atlas), for authorization to continue various sales of natural gas formerly made by Wasatch Corporation (Wasatch), Airfleets, Inc., (Airfleets), San Diego Corporation (San Diego) and Albuquerque Associated Oil Company (Albuquerque) (Wasatch, et al.), Petro-Atlas' predecessors in interest.

In Docket No. G-10497 Wasatch, et al., seeks permission and approval to abandon such sales.

Docket No. G-11506 is an application by Petro-Atlas for certificate authorization to continue various sales of gas heretofore made by Albuquerque to El Paso Natural Gas Company (El Paso) in San Juan and Rio Arriba Counties, New Mexico. Albuquerque has applied for certificate authorization for only one of such sales, which application is still pending in Docket No. G-4843 and included herein for disposition. It is this sale for which Albuquerque seeks abandonment authorization as one of the applicants in Docket No. G-10497. Also, this sale is included in Petro-Atlas' certificate application in Docket No. G-10496.

The application in Docket No. G-14548 was filed by Petro-Atlas for authorization to make two sales to El Paso from acreage in San Juan and Rio Arriba Counties, New Mexico. The application filed by Petro-Atlas in Docket No. G-14614 covers (a) a sale of additional gas to El Paso from acreage in San Juan and Rio Arriba Counties, New Mexico, dedicated by three amendments to a contract dated November 22, 1955 and (b) a sale to Pacific Northwest Pipeline Corporation (Pacific) in Rio Arriba County, New Mexico. Pacific later merged into El Paso.

On October 6, 1958, Petrofina, Inc., in Docket Nos. G-11506, G-14548 and G-14614, and said company jointly with Petrofina in Docket No. G-10496, filed motions to be substituted for Petro-Atlas as applicants in said dockets, reflecting (a) the merger on July 22, 1958, of Petro-Atlas into Petrofina, Inc., with the latter the surviving corporation, and (b) the further transfer, by assignment from Petrofina, Inc., to Petrofina dated July 31, 1958, of the interest formerly held by Petro-Atlas in the acreage dedicated under one of the contracts covered in Docket No. G-10496, namely, a contract dated August 4, 1952, with Tennessee Gas Transmission Company.

On September 28, 1959, Petrofina filed motions to be substituted as applicant in place of Petrofina, Inc., in Docket Nos. G-11506, G-14548 and G-14614, reflecting the transfer to Petrofina, by various assignments dated October 1, 1958, of all Petrofina, Inc.'s interests in gas producing properties in the State of New Mexico and related gas sales contracts, including those involved in the aforesaid dockets.

On November 9, 1959, Petrofina filed two amendments to the application in Docket No. G-14614, one to reflect an acreage correction and the other to include additional acreage dedicated to the November 22, 1955, contract with El Paso by supplemental agreements dated November 12, 1958, and October 19, 1959.

Since the identical service proposed to be abandoned by Wasatch, et al. in Docket No. G-10497 will be continued by Petrofina, no abandonment authorization is necessary and said application is subject to dismissal. The application in Docket No. G-4843, for reasons heretofore set forth is also subject to dismissal.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 14, 1960, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 29, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-7621; Filed, Aug. 15, 1960; 8:46 a.m.]

[Docket No. 12264 etc.]

EAST TENNESSEE NATURAL GAS CO.

Order Consolidating Proceedings, Setting Date of Hearing, Providing for Submittal of Testimony and Exhibits and Cross Examination Thereof

AUGUST 9, 1960.

East Tennessee Natural Gas Company, Docket Nos. G-12264, G-17330 and G-20072.

By orders issued March 21, 1957, December 24, 1958, and November 6, 1959, in Docket Nos. G-12264, G-17330 and G-20072, respectively, the Commission suspended and deferred the use of certain revised tariff sheets to East Tennessee Natural Gas Company's FPC Gas

Tariff, Third Revised Volume No. 1, with the provision that a public hearing thereon be held at a later date. It would appear appropriate that said proceedings should be heard on a consolidated record at the time herein stated to the end that they may be disposed of as promptly as possible. To expedite said matters, East Tennessee should be directed to serve the prepared testimony and exhibits which it proposes to offer as its case-in-chief in advance of hearing so that such testimony and exhibits may be tested by cross-examination as hereinafter provided.

The Commission orders:

(A) The proceedings in Docket Nos. G-12264, G-17330 and G-20072 are hereby consolidated for purpose of hearing.

(B) Pursuant to the prior orders of the Commission in each of the above-entitled proceedings and the Natural Gas Act, particularly sections 4 and 15 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held commencing on October 17, 1960, at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters and issues involved in the proceedings hereby consolidated.

(C) On or before October 3, 1960, East Tennessee shall serve upon all parties of record (including five copies to the Secretary of the Commission), the prepared testimony and exhibits which it proposes to offer as its case-in-chief at the hearing herein ordered so that cross-examination thereof may follow immediately without recess at that time.

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 60-7622; Filed, Aug. 15, 1960; 8:46 a.m.]

[Docket No. CP60-125]

LOUISIANA NEVADA TRANSIT CO. AND ARKANSAS LOUISIANA GAS CO.

Notice of Application and Date of Hearing

AUGUST 10, 1960.

Take notice that on June 20, 1960 Louisiana Nevada Transit Company (Louisiana Nevada), a Nevada corporation with its principal place of business in Ada, Oklahoma, and Arkansas Louisiana Gas Company (Arkansas Louisiana), a Delaware corporation with its principal place of business in Shreveport, Louisiana, filed a joint application as supplemented on June 29, 1960, pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing an exchange of natural gas between the applicants at three proposed points of interconnection between their respective main transmission systems in Hempstead, Lafayette and Howard counties, all in Arkansas. In addition, applicants seek authority to construct and operate metering and interconnecting facilities at the proposed points of interconnection.

Louisiana Nevada and Arkansas Louisiana have entered into an exchange arrangement providing for Louisiana Nevada to take deliveries of gas on a temporary basis while it is effecting repairs and replacements on its pipeline system. It is anticipated that this exchange will involve delivery to Louisiana Nevada of approximately 340,500 Mcf of natural gas at a pressure base of 15.2 pounds and will cover a period of from 30 to 90 days. The application recites that Louisiana Nevada will return equivalent volumes of natural gas to Arkansas Louisiana as soon as practical and upon completion of such redeliveries the facilities will be disconnected.

The estimated cost of the temporary interconnections will be approximately $3,500 which will be paid by Louisiana Nevada.

Applicants were granted temporary authorization by the Commission by letter dated July 14, 1960 to exchange gas as proposed and to construct and operate the facilities required to effectuate such exchange of gas.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations, and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 14, 1960, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., respecting the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 29, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-7623; Filed, Aug. 15, 1960; 8:46 a.m.]

[Docket No. G-18696]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application and Date of Hearing

AUGUST 10, 1960.

Take notice that on June 3, 1959, Texas Eastern Transmission Corporation (Applicant) filed an application, as supplemented on August 3 and August 24, 1959, for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, authorizing Applicant to install and operate a compressor station of approximately 7500 horsepower on its 24-inch pipeline at the existing station site of Applicant's Compressor Station No. 1, near Longview, Texas, all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

Applicant asserts that this new compressor station is necessary because United Gas Pipe Line Company (United), from which company Applicant receives gas, intends to reduce the delivery pressure of its gas, and the volumes of gas being delivered to Applicant by United cannot be handled through the existing station at the reduced pressures.

The cost of the proposed compressor station is estimated at $2,504,000 which Applicant proposes to finance out of funds on hand.

Temporary authorization to construct and operate the proposed facilities was issued by the Commission by letter dated September 21, 1959.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 13, 1960, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 1, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-7624; Filed, Aug. 15, 1960; 8:46 a.m.]

FEDERAL TRADE COMMISSION

[File No. 21-528-4]

RESIDENTIAL ALUMINUM SIDING INDUSTRY

Notice of Trade Practice Conference

A trade practice conference for the Residential Aluminum Siding Industry will be held under the auspices of the Federal Trade Commission on Friday, September 9, 1960, commencing at 10 a.m. (c.d.t.), in the Gold Coast Room, Drake Hotel, Lake Shore Drive and Upper Michigan Avenue, Chicago, Illinois.

The conference will be held under the general supervision of the Honorable Robert T. Secrest, a Federal Trade Commissioner, and will constitute the first step in the proceedings authorized by the Commission for the establishment of trade practice rules for this industry.

All persons, firms, corporations, and organizations engaged in the manufacture, sale, or offering for sale, of residential aluminum siding are cordially invited to attend this conference and participate in the proceedings.

NOTE: Those invited include the primary manufacturers of aluminum; manufacturers or fabricators of residential aluminum siding; jobbers, wholesalers, and retailers of residential aluminum siding; contractors and applicators who sell and install residential aluminum siding; and manufacturers and marketers of prefabricated homes having aluminum siding. As here used "residential aluminum siding" includes panels and boards of various sizes and patterns which are of aluminum composition and are suitable for use as the exterior of walls of existing or new residential structures. The term includes aluminum boards and panels designed for such use regardless of whether an insulation material has been affixed to the underside thereof, or whether painted, or not.

At the conference any industry member may submit for consideration different or additional trade practice rules, and may propose amendments, deletions, or additions, to the draft submitted by this Association. In the interest of an adequate and effective set of rules it is proposed that certain provisions contained in the draft of the Aluminum Siding Association should be made more specific and that rules on additional subjects be considered. It is suggested that rules on the following additional subjects, among others, be considered: Deceptive use of the model home theme; false "gift" offers in sales promotion plans; bait advertising; misrepresentation as to character of business; misuse of terms "custom-made," "custom-built," etc.; misuse of terms "close-outs," "discontinued lines," "special bargains," etc.; use of the word "free"; enticing away employees, sales representatives, dealers or distributors of competitors; deceptive invoicing; exclusive dealing; prohibited forms of trade restraints (unlawful price fixing, etc.); and prohibited discrimination in price, advertising, and promotional allowances.

After the conference on September 9, 1960, and before any rules are finally approved by the Commission a draft of proposed rules in appropriate form will be made available to all affected or interested parties including consumers and consumer organizations, upon public notice affording them opportunity to present their views, criticisms, and suggestions regarding the proposed rules and to be heard at a public hearing in the matter to be announced by the Commission.

Issued: August 12, 1960.

By direction of the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-7528; Filed, Aug. 15, 1960; 8:45 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

RUTH KAUFMANN ET AL.

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Ruth Kaufmann, Oss, The Netherlands; $33.74 in the Treasury of the United States.
Rosina Hes, Laren, The Netherlands; $44.98 in the Treasury of the United States.
Rosina Pels, Nijmegen, The Netherlands; $22.49 in the Treasury of the United States.
Samu Hes, Oss, The Netherlands; $22.49 in the Treasury of the United States.
Simon Kurt van Os, Oss, The Netherlands; $11.25 in the Treasury of the United States.
Claim No. 60982. Vesting Order No. 17836.

Executed at Washington, D.C., on August 10, 1960.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F.R. Doc. 60-7641; Filed, Aug. 15, 1960; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 54-225]

VALLEY GAS CO. ET AL.

Order Approving Plan

AUGUST 10, 1960.

In the matter of Valley Gas Company, Blackstone Valley Gas and Electric Company, Eastern Utilities Associates; File No. 54-225.

Eastern Utilities Associates ("EUA"), a registered holding company, Blackstone Valley Gas and Electric Company ("Blackstone"), an electric and gas utility subsidiary company of EUA, and Valley Gas Company ("Valley"), a newly organized subsidiary company of Blackstone, having filed a plan and amendments thereto ("Plan"), consisting of two steps, pursuant to section 11(e) of the Public Utility Holding Company Act of 1935 ("Act"), Step 1 of which plan provides, among other things, for the sale and transfer by Blackstone of all of its gas properties and certain other assets to Valley, and the receipt by Blackstone of securities of Valley in exchange for the properties; and

A public hearing having been held after appropriate notice, at which hearing all interested persons were afforded an opportunity to be heard, and at which hearing the Public Utility Administrator of the State of Rhode Island participated as a party, and a stockholder of Blackstone, pursuant to leave granted, filed a brief in opposition; and

EUA, Blackstone, and Valley having requested the Commission to approve Step 1 of the Plan and, pursuant to section 11(e) and Section 18(f) of the Act, to apply to an appropriate court to enforce and carry out the terms and provisions of said Step 1 of the Plan; and that the issue and sale of first mortgage bonds and 15-year unsecured promissory notes by Valley be excepted from the competitive bidding requirements of Rule 50 promulgated under the Act; and

The Commission having considered the record and having this day filed its Findings and Opinion herein, finding that Step 1 of the Plan is necessary to effectuate the provisions of section 11(b) of the Act and is fair and equitable to the persons affected thereby;

It is ordered, On the basis of said Findings and Opinion, pursuant to section 11(e) and other applicable provisions of the Act, that Step 1 of the Plan be, and it hereby is, approved, and the issue and sale of $4,500,000 principal amount of first mortgage bonds and $1,500,000 face amount of 15-year unsecured promissory notes of Valley be, and hereby are, excepted from the competitive bidding requirements of Rule 50 promulgated under the Act.

It is further ordered, That this order shall not become operative to authorize the consummation of the transactions contemplated by Step 1 of the Plan until a court of competent jurisdiction shall, upon application thereto by the Commission, enter an order enforcing said Step 1 of the Plan.

It is further ordered, That jurisdiction is hereby specifically reserved with respect to: (a) Step 2 of the Plan; and (b) the prices to be received for, the interest rates on, and the terms and provisions of, the first mortgage bonds and 15-year unsecured promissory notes to be issued by Valley.

It is further ordered, That jurisdiction is reserved: (a) to determine, approve, award, allow and allocate all fees, expenses and remuneration in connection with the Plan and the transactions incidental thereto, and (b) to entertain such further proceedings, make such further findings, enter such further orders, and to take such further action as the Commission may deem appropriate in connection with the Plan, the transactions incidental thereto and the consummation thereof.

It is further ordered and recited, That the transactions, as specified and itemized below, proposed in said Plan, are necessary or appropriate to the integration of the holding-company system of which EUA and its subsidiary companies are members, and are necessary or appropriate to effectuate the provisions of section 11(b) of the Public Utility Holding Company Act of 1935:

1. The purchase by Blackstone for $30 cash, at the par value of $10 each, of the 3 shares of Valley common stock now outstanding.

2. The retirement, by purchase or redemption, of all of the outstanding Blackstone Bonds of the following issue:

First Mortgage and Collateral Trust Bonds, 4⅛% Series due 1988.

and of part of either or both of the outstanding Blackstone Bonds of the following issues:

First Mortgage and Collateral Trust Bonds, 3% Series due 1973.
First Mortgage and Collateral Trust Bonds, 4⅛% Series due 1983.

3. The conveyance by Blackstone to Valley of Blackstone's released gas properties, together with its unmortgaged gas properties and related assets including working capital which, at April 30, 1960, would have been as follows:

	Book Value 4-30-60
Gas properties under mortgage	$7,383,000
Gas properties not under mortgage	557,000
Inventories	356,000
Rented appliance installations	389,000
Miscellaneous	50,000
Unamortized natural gas conversion cost	677,000
Total assets, other than cash	9,412,000
Less—tax liability to be assumed by Valley	70,000
Net assets, other than cash	9,342,000
Cash	658,000
	10,000,000

and the issuance in exchange therefor of $4,000,000 par value of Valley common stock and either (a) $4,500,000 face amount of Valley First Mortgage Bonds and $1,500,000 face amount of Valley 15-year notes, plus Valley short-term notes in such further amount, if any, as may be necessary to cover the excess of the book value over $10,000,000 of the gas properties and other assets conveyed to Valley, or (b) Valley short-term notes, in the face amount of $6,000,000 plus such further amount, if any, as may be necessary to cover the excess of net book value over $10,000,000 as described in (a) above, the foregoing to be effected with such preliminary transactions as are required by the mortgage indenture for release of the mortgaged gas properties.

4. In case $6,000,000 Valley short-term notes are issued under the second alternative of Item 3 above, the subsequent exchange of said short-term notes by Blackstone for $4,500,000 face amount of Valley First Mortgage Bonds and $1,500,000 face amount of Valley 15-year notes.

5. In case additional Valley short-term notes are issued under either the first or second alternative of Item 3 above, the subsequent sale of such notes by Blackstone to banks, or the payment of such notes by Valley from its own funds obtained by bank loans.

6. The sale by Blackstone to institutional investors of $4,500,000 face amount of Valley First Mortgage Bonds and $1,500,000 face amount of Valley 15-year notes.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc 60-7631; Filed, Aug. 15, 1960; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 11, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36474: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 389), for interested rail carriers. Rates on glycol, polypropylene, chocolate coating, lime slurry or liquid lime, roofing pitch, rust preventive, etc., starch and dextrine, etc., in carloads, between points in Texas, over interstate routes through adjoining States.

Grounds for relief: Intrastate competition and maintenance of rates from and to points in other States not subject to the same competition.

Tariff: Supplement 106 to Texas-Louisiana Freight Bureau tariff I.C.C. 865.

FSA No. 36476: *T.O.F.C. service—Chicago, Ill., to New Castle, Pa.* Filed by Erie Railroad Company (No. LW 1-60). Rates on candy and confectionery, also iron and steel articles, loaded in trailers and transported on railroad flat cars, from Chicago, Ill., and points grouped therewith to New Castle, Pa.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 37 to Erie Railroad Company tariff I.C.C. 21211.

AGGREGATE-OF-INTERMEDIATES

FSA No. 36475: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 390), for interested rail carriers. Rates on clothing, cotton, etc., pipe, etc., caustic soda, in carloads, or tank-carloads, as described in the application, from, to, and between points in Texas, over interstate routes through adjoining States.

Grounds for relief: Maintenance of depressed rates established to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff: Supplement 106 to Texas-Louisiana Freight Bureau tariff I.C.C. 865.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-7638; Filed, Aug. 15, 1960; 8:48 a.m.]

[Notice 365]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 11, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 63473. By order of August 9, 1960, The Transfer Board approved the transfer to T. A. Kirchner, Lohman, Mo., of Certificate in No. MC 117071, issued March 19, 1958, to Palmer Goldammer and Howard Hendrickson, a partnership, doing business as G. & H. Truck Service, Lohman, Mo., authorizing the transportation of: Livestock and poultry from Lohman, Mo., to National Stock Yards, Ill., serving the intermediate points of St. Louis, Mo., and East St. Louis, Ill., and intermediate and off-route points within 15 miles of Lohman; and general commodities, excluding household goods, commodities in bulk, and other specified commodities from National Stock Yards, Ill., to Lohman, Mo., serving the intermediate points of East St. Louis, Ill., and St. Louis, Mo., and intermediate and off-route points within 15 miles of Lohman.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-7639; Filed, Aug. 15, 1960; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—AUGUST

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during August.

3 CFR

Page

PROCLAMATIONS:
- 3361 — 7351
- 3362 — 7351
- 3363 — 7519

EXECUTIVE ORDERS:
- Aug. 30, 1911 — 7677
- Apr. 19, 1912 — 7677
- Apr. 29, 1912 — 7677
- Aug. 22, 1919 — 7677
- 3596 — 7383
- 7743 — 7678
- 10655 — 7710
- 10796 — 7710
- 10883 — 7710

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
- Memo., Aug. 11, 1960 — 7710

5 CFR
- 6 — 7619
- 29 — 7307, 7712

6 CFR
- 331 — 7352
- 421 — 7479, 7781
- 464 — 7485
- 481 — 7713
- 485 — 7520

7 CFR
- 7 — 7619
- 28 — 7352
- 51 — 7273, 7307, 7423
- 52 — 7308, 7425
- 102 — 7781
- 210 — 7275
- 301 — 7237
- 718 — 7237
- 728 — 7355
- 811 — 7355
- 815 — 7671
- 818 — 7356
- 831 — 7521
- 850 — 7357
- 922 — 7427, 7522, 7711
- 933 — 7671
- 934 — 7238, 7428, 7711
- 938 — 7238
- 940 — 7428
- 951 — 7781
- 953 — 7239, 7429, 7486, 7711, 7782
- 969 — 7522, 7712
- 992 — 7523
- 1003 — 7672
- 1014 — 7275
- 1020 — 7308
- 1022 — 7309
- 1029 — 7239, 7429

PROPOSED RULES:
- 51 — 7436
- 54 — 7374
- 362 — 7286
- 722 — 7760, 7761
- 903 — 7246, 7697
- 904 — 7819
- 905 — 7391
- 909 — 7760
- 943 — 7539
- 957 — 7403
- 958 — 7760
- 966 — 7284
- 969 — 7539

7 CFR—Continued

Page

PROPOSED RULES—Continued
- 987 — 7391
- 990 — 7819
- 996 — 7819
- 998 — 7331
- 999 — 7819
- 1001 — 7653
- 1014 — 7391
- 1016 — 7259
- 1017 — 7539
- 1018 — 7260
- 1019 — 7819
- 1020 — 7403
- 1032 — 7436

8 CFR
- 214 — 7782
- 282 — 7782
- 299 — 7782
- 511 — 7240

9 CFR
- 72 — 7309
- 78 — 7240

PROPOSED RULES:
- 145 — 7539
- 146 — 7539
- 147 — 7539

10 CFR
- 80 — 7619

PROPOSED RULES:
- 20 — 7803

12 CFR
- 204 — 7713
- 210 — 7782
- 217 — 7620
- 220 — 7312
- 221 — 7313
- 222 — 7485
- 523 — 7714
- 545 — 7714

13 CFR
- 107 — 7276

14 CFR
- 4b — 7486
- 20 — 7714
- 42 — 7486
- 295 — 7673
- 501 — 7715
- 502 — 7718
- 503 — 7719
- 504 — 7720
- 505 — 7721
- 507 — 7241, 7313, 7429, 7430, 7783
- 514 — 7487
- 600 — 7488, 7489, 7673, 7721
- 601 — 7242, 7489–7491, 7520, 7620, 7673, 7721, 7783
- 602 — 7783
- 608 — 7242
- 609 — 7278, 7492, 7723
- 610 — 7431

PROPOSED RULES:
- 40 — 7763
- 41 — 7763
- 42 — 7763
- 47 — 7452
- 221 — 7762
- 294 — 7261
- 507 — 7333, 7464

14 CFR—Continued

Page

PROPOSED RULES—Continued
- 600 — 7344, 7464–7466, 7653, 7698
- 601 — 7261, 7334, 7465–7468, 7653–7655, 7698–7700
- 602 — 7261, 7800
- 608 — 7468

15 CFR
- 382 — 7357, 7621

16 CFR
- 13 — 7434

17 CFR
- 274 — 7368

18 CFR

PROPOSED RULES:
- 104 — 7565, 7601

19 CFR
- 8 — 7313
- 10 — 7674
- 13 — 7674
- 24 — 7674

PROPOSED RULES:
- 24 — 7680

20 CFR
- 345 — 7486

PROPOSED RULES:
- 602 — 7287, 7800
- 604 — 7287

21 CFR
- 120 — 7314, 7369, 7435, 7677
- 121 — 7314, 7316, 7677, 7729, 7784
- 304 — 7369

PROPOSED RULES:
- 9 — 7505
- 120 — 7803
- 121 — 7332, 7374, 7452, 7655, 7698

22 CFR
- 42 — 7521

24 CFR
- 221 — 7486

25 CFR
- 89 — 7784
- 243 — 7620

26 (1939) CFR
- 39 — 7732

26 (1954) CFR
- 1 — 7733
- 211 — 7738
- 212 — 7738
- 301 — 7738
- 510 — 7785

PROPOSED RULES:
- 1 — 7498, 7538, 7743

29 CFR
- 608 — 7543
- 609 — 7791

PROPOSED RULES:
- 4 — 7503, 7504, 7697
- 672 — 7653
- 673 — 7653
- 675 — 7653
- 677 — 7653

31 CFR
- 338 — 7674

Announcement

CFR SUPPLEMENTS

(As of January 1, 1960)

The following Supplement is now available:

Title 45, Revised, $3.75

Previously announced: Title 3 ($0.60); Titles 4–5 ($1.00); Title 7, Parts 1–50 ($0.45); Parts 51–52 ($0.45); Parts 53–209 ($0.40); Parts 210–399, Revised ($4.00); Parts 400–899, Revised ($5.50); Parts 900–959 ($1.50); Part 960 to End ($2.50); Title 8 ($0.40); Title 9 ($0.35); Titles 10–13 ($0.50); Title 14, Parts 1–39 ($0.65); Parts 40–399 ($0.75); Part 400 to End ($1.75); Title 15 ($1.25); Title 16, Revised ($6.50); Title 17 ($0.75); Title 18 ($0.55); Title 19 ($1.00); Title 20 ($1.25); Title 21 ($1.50); Titles 22–23 ($0.45); Title 24 ($0.45); Title 25 ($0.45); Title 26 (1939), Parts 1–79 ($0.40); Parts 80–169 ($0.35); Parts 170–182 ($0.35); Parts 300 to End ($0.40); Title 26, Part 1 (§§ 1.01–1.499) ($1.75); Parts 1 (§ 1.500 to End)–19 ($2.25); Parts 20–169 ($1.75); Parts 170–221 ($2.25); Parts 222–299 ($1.75); Part 300 to End ($1.25); Titles 28–29 ($1.75); Titles 30–31 ($0.50); Title 32, Parts 1–399 ($2.00); Parts 400–699 ($2.00); Parts 700–799 ($1.00); Parts 800–999, Revised ($3.75); Parts 1000–1099, Revised ($6.50); Part 1100 to End ($0.60); Title 32A ($0.65); Title 33 ($1.75); Title 35, Revised ($3.50); Title 36, Revised ($3.00); Title 37, Revised ($3.50); Title 38 ($1.00); Title 39 ($1.50); Titles 40–41, Revised ($0.70); Title 42, Revised ($4.00); Title 43 ($1.00); Title 44, Revised ($3.25); Title 46, Parts 1–145 ($1.00); Parts 146–149, Revised ($6.00); Parts 146–149 (1950 Supp. 1) ($0.55); Part 150 to End ($0.65); Title 47, Parts 1–29 ($1.00); Part 30 to End ($0.30); Title 49, Parts 1–70 ($1.75); Parts 71–90 ($1.00); Parts 91–164 ($0.45); Part 165 to End ($1.00); Title 50 ($0.70); General Index ($1.00).

Order from the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

FEDERAL REGISTER

THE NATIONAL ARCHIVES 1934 OF THE UNITED STATES

Telephone WOrth 3-3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D.C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

Pages 7819–7871

PART II

FEDERAL REGISTER

VOLUME 25 NUMBER 159

Washington, Tuesday, August 16, 1960

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 904, 990, 996, 999, 1019]

[Docket Nos. AO-14-A30; AO-302-A2; AO-203-A12; AO-204-A11; AO-305-A1]

MILK IN GREATER BOSTON, MASS.; SOUTHEASTERN NEW ENGLAND; SPRINGFIELD, MASS.; WORCESTER, MASS.; AND CONNECTICUT MARKETING AREAS

Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Boston, Massachusetts; Providence, Rhode Island; Hartford, Connecticut; and Worcester, Massachusetts; on September 9 to October 8, 1959, pursuant to notice thereof issued on August 19, 1959 (24 F.R. 6847).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on June 15, 1960 (25 F.R. 5488) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

1. Extension of the Boston, Southeastern New England and Worcester marketing areas.
2. Modification of the pooling provisions under the five orders.
3. Revisions in the definitions and treatment of producer-handlers.
4. Modification of the exempt milk provisions.
5. Revisions in the accounting, classification and assignment provisions.
6. Class I price under the Southeastern New England and Connecticut orders.
7. The level of Class II price.
8. Pricing of diverted milk under the Connecticut order.
9. Review of the need and basis for compensatory payments.
10. Modification of the "take-out pay-back" seasonal pricing plan under the Connecticut order.
11. Nearby farm location differentials.
12. Payment dates.
13. Marketing service program under the Boston order.
14. Administrative assessment.
15. Other miscellaneous issues.

Findings and Conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Extension of the Boston, Southeastern New England and Worcester marketing areas.* The Greater Boston marketing area should be extended to include the cities and towns of Ashland, Ayer, Burlington, Holliston, Hopkinton, Littleton, Marlborough, North Reading, Sherborn and Wilmington in Middlesex County, the town of Lynnfield in Essex County, the towns of Hingham and Hull in Plymouth County, the towns of Avon, Canton, Cohasset, Dover, Holbrook, Medfield, Norwood, Randolph, Sharon, Stoughton, Walpole and Westwood in Norfolk County and the town of Southborough in Worcester County.

Until July 1, 1959, the towns of Burlington, Lynnfield, North Reading and Wilmington constituted a narrow corridor separating the Boston and Merrimack Valley marketing areas. The area was served almost exclusively by Boston and/or Merrimack Valley regulated handlers. With the consolidation of the Boston and Merrimack Valley orders the four towns now constitute an unregulated corridor within the Boston marketing area.

Within the past year a Boston handler has established gallon jug stores supplied exclusively with unregulated milk in the towns of Burlington and North Reading. This milk is procured, for the most part, from unregulated sources in northern New England at prices closely reflecting the Boston blend price, and is processed in the handler's unregulated Woonsocket, Rhode Island, plant. It is estimated that such milk is obtained at a price advantage of approximately $1.00 to $1.20 per hundredweight below the Class I price regulated handlers are required to pay under the order.

The four-town area in 1950 had a population of approximately 19,000 and there has been a continued population growth since that time. Regulated handlers have lost about 10 percent of the sales in this area since the gallon stores have opened. In addition the stores draw considerable patronage from the surrounding regulated towns. Proponents testified that a random check made just prior to the hearing indicated that about 50 percent of the cars stopping at those gallon jug stores were registered in cities and towns presently included in the marketing area.

The four-town area in question, because of location, constitutes a natural extension of the marketing area. Regulated handlers, who are the principal suppliers, are at a disadvantage in competing for sales, and they have lost and are continuing to lose sales to unregulated milk. It is proper, therefore, that these towns be consolidated into the marketing area.

The towns of Ayer and Littleton, having a civilian population of 8,000 in 1950, include the military establishment of Fort Devens. The civilian population is presently served by seven Boston or Worcester regulated handlers and five unregulated dealers. Regulated handlers make about 60 percent of the civilian sales. At least one of the unregulated dealers will become fully regulated by virtue of extension of the Worcester marketing area hereinafter proposed. The civilian population obviously will depend primarily on regulated milk and these towns should be added to the Boston area on this basis.

The primary intent in requesting regulation of milk marketing in these two towns, however, was to bring within regulation milk supplied to the military installation. Fort Devens is served on the basis of contract bids and the total sales on the basis of current staffing approximate six million pounds annually. The installation was once served primarily by regulated handlers using regulated milk, but in recent years it has been served almost exclusively with unregulated milk. This unregulated milk in reality is usually a part of the

Part II—No. 159——1

New England regulated milk supply. But when a handler obtains the contract at the installation he removes the milk from regulation and when the contract is terminated the milk is returned to regulation. This has had an unstabilizing effect upon marketing channels and upon producer returns.

The towns of Hingham, Hull and Cohasset form a small unregulated pocket at the southeast corner of the Boston marketing area and the northeast corner of the Southeastern New England marketing area. According to the 1950 census the combined population of the three-town area was 17,731, exclusive of summer residents who move in from the nearby metropolitan area during the vacation months and increase Class I sales significantly. The area is preponderantly served by Boston handlers, though to some extent it is also served by Southeastern handlers. While there has been no significant competition from unregulated milk, nevertheless, by location and by virtue of its extensive coverage by Boston handlers' routes, it is an integral part of the Boston marketing area.

The towns of Hingham and Hull were initially excluded from the Southeastern New England marketing area because of their integral relationship to the Boston market. The town of Cohasset, not initially proposed for regulation under the Southeastern New England order, is also integrally related to the Boston market. The inclusion of these towns will not significantly affect the status of any person presently doing business there. Potentially, however, the area presents an opportunity for unregulated handlers to establish retail stores and create a situation similar to that which occurred in the towns of Burlington and North Reading, as previously discussed. It is appropriate, therefore, that Hingham and Hull be included in the marketing area at this time.

The cities and towns of Ashland, Holliston, Hopkinton, Marlborough, Sherborn and Southborough are contiguous to the western boundary of the existing marketing area and are preponderantly served by presently regulated handlers. Ten of the 19 handlers doing business there are Boston handlers and two are Worcester handlers. Approximately 70 percent of the business in these six towns is done by regulated handlers.

Approximately 50 percent of the total population of this six-town area resides within the city of Marlborough. While the remaining five towns are significantly less densely populated, nevertheless their location relative to Marlborough and the presently regulated area under the Boston and Worcester orders affords opportunity for exploiting unregulated milk and regulated handlers in recent years have met with increasing competition from such milk. Continuing technological improvements in the processing and distribution of milk have made the specialized milk store a practical and efficient method of retailing milk. A single, unregulated plant can supply a chain of stores widely scattered over southern New England, and in this way it has become practical for unregulated handlers to serve scattered concentrations of population. Several supply plants have been withdrawn from regulation to supply unregulated milk for such operations here and in other areas herein proposed for regulation. To preserve the integrity of regulation, it is necessary, therefore, to extend the marketing area to cover this territory in which regulated handlers are the primary distributors.

The situation in that part of Norfolk County which is not now regulated or hereinbefore recommended for regulation (Cohasset) is substantially similar to that in the six-town area previously discussed. The situation has been further accentuated by the fact that certain regulated handlers, in an effort to meet unregulated competition, have adjusted their operations, by use of the exempt milk provisions of the orders, to enable them to serve unregulated areas with unregulated milk. Changes in the exempt milk provisions hereinafter proposed would tend to deter these exempt milk operations. As previously pointed out, however, it is now desirable to extend the area of regulation to cover that territory in which regulated handlers are the primary handlers. The problem concerning the presently unregulated parts of Norfolk County is one of determining what segment should most appropriately be added to Boston and what segment should be added to Southeastern New England.

The Norfolk County towns hereinbefore set forth are served primarily by handlers regulated under the Boston or Southeastern New England orders and by one other substantial distributor who would be brought under full regulation by the revision in the exempt milk provisions hereinafter proposed. While it cannot be concluded definitely for each of these towns that Boston handlers, rather than Southeastern New England handlers, do the preponderance of the business, the area, by location, represents an appropriate extension of the Boston marketing area. The provisions of the two orders, as herein proposed to be amended, are so integrated that there should be no serious consequence if it develops that one or more of these towns is in fact served primarily by Southeastern rather than Boston handlers.

The towns of Pepperell and Dunstable in Middlesex County were also proposed for addition to the Boston marketing area. These towns are substantially rural in character. They had a combined population in 1950 of only 3200 and there is no evidence of significant population growth since that time. While the regulated handlers doing business here do meet substantial competition from unregulated handlers, it was not established that this competitive situation has resulted in market disorder of such magnitude as to warrant regulation.

The Southeastern marketing area should be extended to include the towns of Bellingham, Foxborough, Franklin, Medway, Millis, Norfolk, Plainville and Wrentham in Norfolk County and the towns of Blackstone, Hopedale, Mendon, Milford and Millville in Worcester County. These towns are served primarily by handlers presently regulated under the Southeastern New England order and by handlers who would be brought under that regulation by the charges in the exempt milk provision hereinafter discussed. The situation relative to the use of unregulated milk is identical to that in the adjacent areas hereinbefore proposed for addition to the Boston area, and extension of regulation is necessary for the same reason. The question in the case of the Norfolk County towns and the town of Milford in Worcester County is whether regulation under Boston or Southeastern New England would be more appropriate. It is concluded that these towns are more closely associated with the Southeastern New England market and, therefore, should be included in that marketing area.

Regulation should not be extended to include the towns of Northbridge, Uxbridge, or Douglas. The town of Northbridge was at one time regulated under the Worcester order, but it was removed following an amendment hearing in which it was established that the preponderance of business in the town was done by a large number of producer-handlers located either in Northbridge or in Uxbridge. This situation continues to exist. Regulated handlers do little business in these two towns. Regulation was opposed by those producer-handlers who historically have held virtually an exclusive market.

The town of Douglas is largely taken up by a State park. It was proposed for regulation under the Southeastern order, but in fact there are no Southeastern handlers operating in the town.

The Worcester marketing area should be extended to add the cities of Fitchburg, Gardner, and Leominster and the towns of Charlton, Dudley, Lancaster, Lunenburg, Northborough, Oxford, Princeton, Southbridge, Sterling, Sutton, Upton, Webster, Westborough, and Westminster—all in Worcester County.

The cities of Fitchburg, Gardner, and Leominster, commonly referred to as the Tri-city area, are situated to the north of the present Worcester marketing area. In 1950 they had a combined population of more than 87,000, which was nearly 45 percent as large as that of the city of Worcester, which is the hub of the present marketing area. While about one-fourth of the business in these three towns is done by presently regulated dealers, 35 to 40 percent of the business is done by dealers who are using unregulated milk purchased from sources outside the State of Massachusetts but within the procurement area of the New England federally regulated markets. In recent years more and more handlers have been dropping local producers to use unregulated milk. There now is only one large dealer who still buys from local producers.

Unless the area is placed under regulation many of the remaining nearby Massachusetts producers will lose their local market and be forced to look to the adjacent Federal order markets as outlets for their milk.

As previously indicated, the cost advantage of using unregulated milk over federally regulated milk is approximately a dollar per hundredweight, and since the price established under the State order for this area is slightly in excess of the Federal order price the cost advantage of unregulated milk over State controlled milk is even greater. The cost advantage of unregulated milk therefore is a substantial inducement for handlers to increase their purchases of such milk and to develop unregulated Class I sales operations in the area. Regulated handlers using regulated milk obviously cannot compete effectively with such operations.

While regulation of Gardner, Fitchburg, and Leominster will greatly relieve the disorderly marketing situation in northern Worcester County, an even greater degree of market stability will be achieved by regulating also the immediately adjacent towns of Westminster, Lunenburg, Princeton, Sterling, and Lancaster. These towns are preponderantly served by presently regulated handlers and by handlers who will be brought under regulation by inclusion of the Tri-city area. For the most part, they also are ideally situated for the extension of unregulated milk operations which would tend to draw sales from the present marketing area and/or the Tri-city area. The towns of Princeton and Sterling are served almost exclusively by presently regulated handlers.

The towns of Ashburnham, Ashby, Templeton, Hubbardston, and Townsend should not be added to the Worcester marketing area. They are substantially rural in character and they are less favorably situated for gallon jug store operations than the towns herein proposed for regulation. These towns are served largely by dealers who do the preponderance of their business in other unregulated areas.

The towns of Northborough, Westborough and Upton form a narrow corridor between the present Worcester marketing area and the marketing areas of Boston and Southeastern New England as hereinbefore proposed to be extended. Handlers regulated under these orders now have approximately 80 percent of the Class I sales here, and extension of the Worcester regulation will prevent repetition of the previously discussed store situation which has developed in other unregulated corridors.

The towns of Charlton, Oxford, Sutton, Southbridge, Dudley, and Webster are located adjacent to and between the present Connecticut and Worcester marketing areas. Worcester handlers have the preponderance of business in the towns of Charlton, Oxford, and Sutton and also have substantial sales in the remaining three towns. A substantial Connecticut handler operates a bottling plant in the town of Dudley and has general distribution in that town and in the adjacent towns of Webster and Southbridge. In addition, other Connecticut handlers also have distribution here. It is concluded that Worcester and Connecticut regulated handlers do the preponderance of business in these three towns, and that orderly marketing will be enhanced by their inclusion in the Worcester marketing area.

Extension of regulation to include the six-town area was proposed by certain Worcester handlers who testified that they operated at a serious competitive disadvantage in competition with unregulated operations in the area. They further pointed out that the present disorderly marketing conditions created by the presence of unregulated milk could be increased by the establishment of store outlets in the area. The six-town area has a population in excess of 50,000 and is served by an excellent transportation network. It thus represents an excellent opportunity for unregulated milk operations similar to those which have sprung up in other unregulated corridors. It is appropriate, therefore, that this six-town area be added to the Worcester marketing area.

The towns of Sturbridge and Northbridge should not be included in such marketing area. The Northbridge situation was previously discussed under the extension of the Southeastern New England marketing area and its inclusion in the Worcester area at this time is inappropriate for the reason stated when its inclusion in the Southeastern area was denied. The town of Sturbridge presently is served by only one regulated handler in competition with five small unregulated dealers. There is no indication of market disorder which would require its regulation at this time.

The towns of Barre, Brookfield, East Brookfield, Hardwick, New Braintree, North Brookfield, Oakham, Ware, and West Brookfield are served extensively by presently regulated handlers. There is no indication that unregulated milk in any way has been a disruptive factor in these nine towns. Regulation was requested to eliminate the possibility of gallon jug stores being established on the perimeter of the marketing area from which unregulated milk sales would provide disadvantageous competition for regulated milk. The towns in question are primarily rural in character and there is no indication, other than in the town of Ware, that regulated Worcester handlers have had any competitive problems. The competition complained of in the town of Ware was from a fully regulated handler under the Springfield order, and it is not apparent how regulation of this town would in any way alter this competitive situation.

2. *Pool plant provisions.* The provisions of the several New England orders should be revised to provide generally for regulation of a plant under the order for that market in which it disposes of the greater proportion of its Class I milk on routes or, in the case of supply plants, that market to which the greater proportion of its shipments are made.

Virtually all the milk in the New England area is qualified for disposition as fluid milk in one or all of the Federal order markets in New England. While there are technical differences in the several health ordinances in effect and in their application, nevertheless, the markets draw milk from a generally common supply area. Producers and/or plant operators have a broad choice of markets and milk can be expected to associate with that market which, in the judgment of the individuals or companies concerned, offers the most attractive financial remuneration.

Prior to the advent of regulation in Southeastern New England and Connecticut, the Boston pool carried most of the reserve supplies for the entire New England area. In order to hold the Class I sales for which the pool carried the reserve supply, it was desirable to maintain low pooling requirements and to pool any plant meeting such requirements, even though such plant by performance might be more closely associated with one of the regulated secondary markets (Merrimack Valley, Springfield and Worcester).

The advent of regulation in the Southeastern New England and Connecticut markets has changed substantially the supply situation in the New England area. Most of the manufacturing plants which process milk in excess of Class I needs are now, and will undoubtedly continue to be, associated with the Boston pool. Nevertheless, it is expected that the two new orders will carry their own market reserves. In the interest of orderly marketing, the provisions of the respective orders must be drafted to facilitate the movement of milk as between markets and to promote alignment of blended prices as between markets. This can best be accomplished by providing more uniform basic plant definitions and pooling requirements. It is concluded, therefore, that the plant and receiving plant definitions under the Southeastern New England order should be revised to conform with such definitions under the three older New England orders, and that the plant definition under each of these four orders should be further modified in conformity with the provisions of the Connecticut order to make clear that the definition does not include separate facilities used to hold or store packaged fluid milk products or other milk products in finished form in transit on routes.

The present plant and receiving plant definitions under the Southeastern New England order are identical to those of the Boston order in effect prior to April 1, 1959. These provisions were modified effective April 1, 1959, to conform more closely to the conditions of bulk tank handling and to permit the pricing of milk at country transfer points, which are substantial facilities operated by bona fide handlers with financial responsibility. The present definitions of the three oldest orders are equally appropriate for the Southeastern New England order, for the identical reasons stated in the Assistant Secretary's decision of March 24, 1959 (24 F.R. 2441), in proposing their adoption in the Boston and secondary markets.

The plant and receiving plant definitions under the Connecticut order do not need to be modified with respect to the maintenance of holding facilities. No evidence was submitted to show that, in terms of the situation in this market, these definitions have not operated satisfactorily.

The three oldest New England orders presently use Class I disposition (both to plants and on routes) in the market area as one criterion for pooling distributing plants. The Connecticut and Southeastern New England orders use "route" disposition. It is concluded that route disposition in the marketing area should be used as a uniform standard for distributing plants under each of the several orders. It is appropriate that route sales include all disposition of fluid milk products classified as Class I, other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition. Bulk movements as between plants should be treated as plant transfers as should packaged movements to plants which are also packaging plants. Class I disposition from any such transferee plant properly should be considered as route disposition of such plant. Packaged sales to nonpackaging plants are no different than sales to other peddlers or vendors and sales from such plants, as in the case of sales by vendors, should be counted as route sales of the packaging plant.

In conjunction with this conclusion, it is proposed that the handler definition be extended to include peddlers, bobtailers and similar persons. As nonpool handlers, such persons will be required to file reports with the market administrator relative to their receipts and disposition of milk in order that he may ascertain where the milk is disposed of.

The plant definition, as hereinbefore provided, excludes buildings and facilities used primarily to store packaged fluid milk products in transit on routes. This is intended to make clear that routes emanating from distribution depots are to be considered as routes of the originating plant, whether such depots are operated by the same handler, or by bobtailers, vendors, peddlers or similar distributors. This treatment is presently prescribed under the existing Connecticut order language.

Under the present provisions of the Southeastern New England order, a receiving plant with route distribution must dispose of 10 percent of its dairy farmer receipts as Class I milk in the marketing area on routes, and at least 50 percent of such receipts as Class I, to qualify for pooling. Under the Connecticut order, such a plant must dispose of 10 percent of its dairy farmer receipts as Class I milk in the marketing area on routes and 50 percent of its total receipts as Class I to qualify for pooling. Under the three oldest orders such a plant must dispose of 10 percent of its overall receipts as Class I milk in the marketing area to qualify for pooling. A plant located in excess of a prescribed distance from the market is termed a country plant and must meet different requirements. These three latter orders also prevent pooling of a distributing plant during certain months of the year which did not operate as a pool plant during other prescribed months of the year. A distributing plant meeting the requirements of the Boston order and of any other order presently is regulated under the Boston order, even though it might do the greater proportion of its business in another market.

With virtually all the concentrated area of sales under regulation, it is appropriate and desirable that distributing plants be regulated in that market in which they do the greater proportion of their Class I business. This result can best be accomplished by providing identical pooling standards under each of the respective orders. The language of the Connecticut order is most appropriate for this purpose. Since all distributing plants presently pooled under the several orders are primarily Class I operations, it is not expected that any plant presently pooled will be denied pooling status because of these modifications. Nevertheless, should the adoption of this language result in nonpool status for any plant presently pooled, such result is concluded appropriate. A distributing plant which utilizes less than 50 percent of its fluid milk receipts in Class I obviously cannot be considered as primarily associated with a fluid market, and the pooling of such a plant would adversely affect returns to producers for the fluid market. A plant which has less than 10 percent of its producer receipts disposed of in any marketing area should not be considered as substantially associated with such local market. Full regulation of plants with only a minor part of their distribution in the local market is not necessary and might well have the result of placing such plants at a competitive disadvantage in supplying the market with which they are primarily associated.

With the requirement that a distributing plant must have at least a 50 percent Class I utilization to qualify for pooling, it is no longer necessary to retain the flush season exclusion for distributing plants, since a plant entering the market for the first time during the flush months should not have a detrimental effect on the pool. Hence, there need be no concern of pool riding.

It is recognized that because of the close geographical relationship of the several marketing areas some plants, as a result of losses or gains in sales as between markets, might occasionally shift from one pool to another. This situation most likely could occur in the case of some of the smaller handlers operating in areas where two or more of the marketing areas adjoin. While such a situation might be disconcerting to the plant operator, it would have no significant effect on him, his producers, or any supply plants shipping to such plant, since class prices are identical as between markets and blended prices will be closely aligned. The pooling requirements for distributing plants as herein proposed are identical under each of the orders, and provision is made whereby supply plants which meet the pooling requirements under any of the New England orders in each of the months of July through November have automatic pooling status under any such order during the flush production months.

It is desirable that the principle of regulating a distributing plant in that market in which it has the greater proportion of its route sales be preserved. Any modification of this principle would tend to enhance or deflate the Class I sales in one pool to the disadvantage or advantage of the other. It is unlikely that there will be any significant occurrence of plant shifts as a result of this conclusion. Nevertheless, should any plant exist which has approximately equal route sales in two markets, and such plant is shifted between pools on the basis of minor losses or gains in route sales in one market as compared to another, such result must be concluded to be appropriate.

The present "city" and "country" plant definitions in the three oldest orders, in conjunction with the pooling provisions, establish different pooling requirements for distributing plants solely on the basis of location. The continued application of this principle would tend to deter the intent to pool distributing plants in the market in which they do the greater proportion of their Class I business. Plants performing similar functions should be accorded similar treatment, and distance should reflect only difference in prices as between plants. It is concluded, therefore, that distance from market should not be a factor in pooling requirement.

The pooling requirements for supply plants under each of the respective orders should be modified to provide, (1) more uniform shipping requirements, (2) greater flexibility for plants to move from one pool to another, and (3) assurance of pooling status under some order during the flush for any plant which was pooled under any of these orders in each of the short production months.

Under the existing provisions of the Boston order a supply plant must meet specified performance requirements in each month in the case of city plants, while country plants must ship 10 percent of their producer receipts in the month of August and make at least token shipments every other month thereafter. Any plant meeting the pooling requirements in any month is pooled in such month unless the operator thereof requests nonpool status. A plant operated as a nonpool plant in any month of July through March cannot hold pooling status in the months of April through June if operated by the same handler or an affiliate.

With respect to supply plants the Worcester and Springfield orders provide 50 and 30 percent shipping requirements, respectively, and a plant pooled in each of the months of October through February has automatic pooling status in the months of March through September. As in the case of the Boston order, any plant operated as a nonpool plant during any of the short production months cannot be pooled during the flush if operated by the same handler or an affiliate.

In the case of the Connecticut order a supply plant must qualify for pooling in each of the months of July through November to hold automatic pooling status in the following months of December through June, but any plant is qualified for pooling in any month in which it meets the 30 percent shipping requirement. The Southeastern New England order also provides a 30 percent shipping requirement for supply plants in the months of July through November but, similar to the three oldest orders, denies pooling status during the flush to a plant which held nonpool status in any of the short months and is operated by the same handler or an affiliate. The Connecticut and Southeastern New England orders exempt from pooling any plant which met the pooling requirements but was a pool plant under another Federal order. Such nonpool status in any month for any qualified supply plant does not deter automatic pooling during the flush months. Similarly, the Springfield and Worcester orders defer to each other and to the Boston order but do not recognize the Southeastern New England or Connecticut orders.

The varied requirements for supply plants presently contained in the several orders deter the orderly movement of plants from one order to another in response to market needs and resulting price incentives. Handlers' efforts to assure reasonable alignments of blends through movements of plants and/or milk within the limits provided in the orders have not necessarily accommodated the situation, and have provoked considerable dissatisfaction on the part of affected producers.

It is concluded that with respect to supply plants the months of July through November should be adopted under each of the orders as the qualifying months for automatic pooling during the subsequent months of December through June. The months of July through November, presently used in the Southeastern New England and Connecticut orders, also generally represent the months of shortest production and/or greatest need in the New England area as a whole. It is appropriate, therefore, that such months be adopted as the qualifying months for automatic pooling in the remaining months to provide continuity of pooling provisions as among the several orders.

Pooling qualification for supply plants should be contingent on meeting specified shipping requirements to pool distributing plants, or to other plants not regulated under another Federal order which utilize at least 50 percent of their total receipts of fluid milk products in Class I and dispose of not less than 10 percent of such receipts as Class I milk in the marketing area on routes. This requirement is generally applicable under the Southeastern New England and Connecticut orders, but no distinction is made as to whether the transferee plant is regulated under another Federal order. As a result, certain handlers with distribution in both the Boston and Southeastern New England markets have pooled their bottling and distributing plants under the Boston order and their supply plants have been moved back and forth between the two pools. It is concluded that market stability in the area will be enhanced if with only specified exceptions hereinafter discussed, supply plants are required to pool under that order regulating the distributing plant(s) to which qualifying shipments are made.

It is proposed that the shipping requirement under the Worcester order be reduced from 50 to 30 percent to conform with the provisions of the Springfield, Connecticut and Southeastern New England markets. Worcester is a small market and the bulk of the receipts are direct receipts from nearby producers. It is not expected that the lower shipping requirement will result in any additional plants being pooled under this order. Nevertheless, should such result obtain, it cannot be considered inappropriate. While it is not intended that shipping requirements be so low as to attract milk primarily associated with manufacturing outlets, too high a shipping requirement may tend to deter an appropriate sharing of market supply, particularly if lower requirements are provided in surrounding Federal orders.

The Boston market is substantially different in structure than the other four markets, in that here the great majority of the milk moves to market through supply plants. Handlers have generally concentrated their manufacturing operations in particular plants, and have maintained other plants primarily as reserve supplies. The multiplicity of ownerships involved and plant associations which have been made under the existing order provisions would be seriously disrupted, and pool supply plants of long standing might be denied pooling status, if the performance requirements were established at the same level provided in the other four markets. Nevertheless, some more stringent requirements are necessary and desirable to deter plants from associating with the Boston pool solely because of the ease of pooling. It is concluded, therefore, that a supply plant under the Boston order should be required to ship 15 percent of its producer receipts in any month of July through November to hold pooling status in such month. However, provision should be made whereby, in the case of two or more supply plants operated by the same handler, such plants may be considered as a system and after the first month in which the 15 percent shipment from each individual plant therein is met, the performance of the system would then determine qualification of all of the plants therein.

Requirement that the individual plant meet the prescribed shipping percentage in the first month of pooling is necessary to demonstrate such plant's right to association with the pool and is consistent with the present pooling provisions. Since the multiple plant handler has considerable flexibility in his operations he could, if he continues to qualify his plants as a system, also qualify each plant therein individually. Provision for system pooling, however, will serve to minimize uneconomic and unnecessary transportation and/or receiving costs on the part of the handler to assure pooling status for each of his supply plants.

Notwithstanding the privilege of system pooling, it is intended that the actual shipping performance of each individual plant shall determine under which order such plant shall be regulated. Hence, any plant included in a system under the Boston order, which plant makes sufficient shipments to one of the other orders to qualify as a pool plant under such other order, would be regulated under that order in any month when such shipments exceeded its shipments to the Boston market.

Any plant which a handler might later wish to add to his system should be required to meet the 15 percent shipping requirement apart from the remainder of the system in the first month in which it is associated with the market. Such requirement is similar to that placed on other system plants in the pool and serves to establish a bona fide association with the market.

Most of the manufacturing plants in the New England area are now, and will continue to be, associated with the Boston pool. Milk in excess of fluid requirements in the other four markets, by and large, is disposed of through Boston pool plants. Under normal circumstances, for most economical handling such milk is moved to Boston bottling plants, and an equivalent amount of Boston pool milk is held upcountry for manufacture. A plant normally pooled under one of the other four orders might well ship a greater quantity of milk to a Boston distributing plant and, under a rigid rule of regulation in that market to which the greater shipments were made, would necessarily be regulated under the Boston order. This would force onto the Boston pool most of the surplus for the entire New England area. At the same time the utilization in the other markets would be held relatively high. Under such circumstances Boston handlers would likely be unwilling to handle such milk moving from other markets. It is appropriate, therefore, that the Boston pooling provisions be so drafted that a supply plant meeting the pooling requirements could, nevertheless, hold nonpool status during any of the months of July through November by notification to the market administrator that such plant is to be considered a nonpool plant, if such nonpool status would result in full regulation under another of the New England orders and no milk received from such plant by a Boston pool plant were assigned to Class I under the provisions of the Boston order. This procedure will implement the orderly disposition of the reserve supply of the five-market area.

It is neither necessary nor appropriate to require plants which have had a bona fide association with a market during each of the short production months to make shipments during the flush season to retain pooling status. During the months of flush production, supplies of milk received at plants located in or near the marketing area may be sufficient to supply the market's fluid needs. In such case, it would be more economical to leave the more distant milk in the country for manufacturing and utilize the nearby milk for Class I use. It is provided therefore that each of the respective orders shall provide automatic pooling status during the flush production months for any supply plant which met the pooling requirements under such order in each of the short production months. Without specific direction from the operator thereof, any plant which met the applicable pooling requirements under two or more orders in each of the short production months would be pooled during the flush production months under that order under which the greatest proportion of its producer receipts was pooled during the short production months. However, such plant, would have, in fact, established a bona fide association with each of the markets for which it met the pooling requirements. It is deemed appropriate, therefore, that the operator thereof be permitted to choose pooling under any of the orders, for which the plant has qualified, on a month-to-month basis during the flush months by requesting nonpool status in his normal market.

A plant which continuously met the pooling requirements under the several orders in each of the short production months, but not continuously under any one order, should have automatic pooling status under some order during the flush months, since it would have demonstrated amply its association with the regulated markets of New England. Such automatic pooling status appropriately should be available under that order under which the greatest proportion of its producer receipts were pooled during the preceding short production months. Should the operator of such plant not wish to pool his plant in this manner it is desirable that he be permitted to request nonpool status for such plant. In that event the plant would be eligible to pool under one of the other orders by meeting the applicable shipping requirements in such month. Such plant would not have qualified for automatic pooling on the basis of shipments to any single market, and should the operator thereof later elect to return to that market in which he was initially provided automatic pooling status, the plant should appropriately be pooled only if it meets the current shipping requirements.

In any situation where a plant acquires automatic pooling status in a market in which it did not meet the pooling requirements in each of the short production months, but nevertheless met the pooling requirements in another market in each of the preceding short months, the operator thereof should be permitted to elect pooling status in such latter market by proper notification to the respective market administrators. As in the previous situation, the plant should be permitted to return to the market in which it was initially provided automatic pooling only by meeting the current shipping requirements.

Any plant which qualifies for automatic pooling status under one or more of the several orders, but nevertheless elects not to be pooled under any order during any flush production month, should be considered to have forfeited automatic pooling status, and such plant should be permitted to pool in any subsequent month of such period only by meeting the current shipping requirements. It is unlikely that any plant would elect nonpool status in any flush month unless the milk received there was intended for use in an outside Class I market. It would be inappropriate to permit a plant to withdraw from the pool to supply an outside market and to return to automatic pooling status when such outlets were no longer available. It is appropriate, therefore, that any plant withheld from pooling under all of the orders during any flush month shall forfeit its automatic pooling status and be permitted to pool during any remaining months of such period only by meeting the current shipping requirements.

Except as hereinbefore provided, any supply plant which was a nonpool plant under all of the New England Federal orders during any of the months of July through November should not be permitted pool plant status in any of the immediately following months of December through June in which it is operated by the same handler, an affiliate of the handler or any person who controls or is controlled by the handler. It would be inappropriate to permit a plant to hold pooling status under any of these orders during the flush months of production if the milk regularly received there is withdrawn from regulation during the short production months (when such milk would be most needed by the local regulated markets) to supply outside Class I markets.

The pooling provisions of the three oldest orders condition pooling eligibility on plant licenses and individual producer permits issued pursuant to the Massachusetts General Laws. The pooling provisions herein recommended prescribe performance requirements which plants must meet. Any plant meeting such requirements has sufficiently demonstrated its association with the market and its right to participate in the equalization pool. Hence, it will not be necessary to rely upon health approvals under the recommended amendments.

Since the months of July through November are established as the qualifying months for pooling status during the months of December through June and it is not feasible to invoke the order provisions on a retroactive basis, it is necessary that provision be made to accommodate the situation during the period through June 1961. This appropriately can be accomplished by providing that for the period from the effective date of the amending orders through June 1961 all of the terms and conditions applicable to the months of July through November relative to plant pooling, and the "producer" and "dairy farmer for other markets" definitions shall be administered on the basis of performance during the period from the effective date of the amending orders through November 1960.

The need for modification of the pooling provisions in light of the prospective effective date of the order was generally recognized by interested parties in their exceptions and the modifications herein provided are generally consistent with the suggestions of exceptors.

Each of the orders other than Connecticut now make provision for the pooling of plants within specified locations which are operated by an association of producers. Such provision was adopted in recognition of the fact that only very limited manufacturing facilities were available near these markets, and that much of the burden of handling local milk in excess of fluid needs would likely fall upon the several cooperatives with membership among the nearby producers. Such cooperatives operate surplus handling facilities at plants within each of the respective marketing areas and except in the case of Connecticut, milk received at such plants otherwise would not be eligible for pooling since the plants involved have no route sales and could not under normal circumstances meet the shipping requirements for supply plants.

It is intended that any plant qualifying under this provision should be functioning solely as a balancing and surplus disposal plant. Nevertheless, the orders other than Boston are not specific in this regard, and in the case of Southeastern New England at least one plant qualified under this provision has received no milk from producers and has no processing facilities. It is concluded that, except for Connecticut, the respective orders should be modified to specifically provide pooling status for a receiving plant located in the marketing area and operated by a cooperative association if the quantity of Class I milk disposed of on routes from such plant does not exceed two percent of its total receipts of fluid milk products. The two-percent tolerance is necessary to protect a plant's pooling status in the event of minor route sales through error or accident. Without some tolerance, such accidental disposition would result in forfeiture of pooling status for the milk involved and if this situation occurred in any of the months of July through November, the plant would also be disqualified for pooling in the following months of December through June.

No change is proposed in the Connecticut order since the existing order provisions have accommodated the pooling of the cooperative's surplus manufacturing plant in that market.

One cooperative association with several supply plants presently pooled under the Connecticut order proposed that automatic pooling status be granted to their plant at Great Barrington, Massachusetts, on the grounds that such plant was a balancing plant for the Connecticut market. The plant in question has no manufacturing facilities and virtually all of the milk received there from producers is shipped to plants in the marketing area. There is no basis for distinguishing this plant from any other supply plant associated with the market and it should therefore be pooled only so long as it meets the regular pooling requirements of the order.

The proponent cooperative association excepted to this conclusion, pointing out that the Connecticut market is in relatively short supply and suggesting that more liberal pooling provisions should be provided to encourage association of additional milk supplies with the market. While exceptor concede that the changes recommended in point of pricing for diverted milk will provide greater equity in returns among producers and reduce the costs incurred in handling diverted milk, they suggest that automatic pooling status for their Great Barrington plant and extension of marketing area pricing, as requested, would further implement the association of additional milk supplies with the Connecticut market. These proposals, however, are not adpoted for reasons previously and hereinafter set forth.

3. *Modification of producer-handler definition.* The producer-handler definition in the Boston, Springfield and

Worcester orders should be modified more nearly to conform with the present definition in the Southeastern New England order. Small producer-handlers whose own-farm production or route sales of Class I milk (whichever is less) does not exceed an average of 1,000 quarts per day during the month should be permitted to purchase fluid milk products (packaged or bulk) from fully regulated plants under any of the New England Federal orders without restriction. A small tolerance should be provided whereby large producer-handlers can obtain minor quantities of specialty items or balancing supplies without affecting their status as producer-handlers.

The Boston order presently defines a producer-handler as a dairy farmer who operates a plant from which he disposes of Class I milk (from his own farms located within 80 miles of Boston) and who receives no milk from other dairy farmers, except other producer-handlers. The Springfield and Worcester definitions are essentially the same but with no mileage limitation on farm location.

Hence, under the three oldest orders a dairy farmer operating a processing plant, and who receives no milk from other dairy farmers, is exempted from pooling his own milk regardless of the extent to which he relies upon the pool for balancing supplies. This is a significant advantage to producer-handlers in that it allows them to realize a Class I return on virtually all of their own milk production. This advantage can be translated into unstabilized marketing conditions for all milk in the market. There has been considerable incentive for dairy farmers in close proximity to the market to develop producer-handler type operations.

Typically, a producer-handler conducts a small family-type operation, processing, bottling and distributing only his own farm production. Full regulation of such individuals provides considerable administrative difficulties. Normally, exemption from regulated status is made in a Federal order for such individuals on the grounds that such businesses are so small that they have little or no effect upon the pool. When such operations become substantial and rely upon the pool to carry their supplemental supplies and necessary surplus, the normal basis for exempting their own production from pricing and pooling no longer exists. It is provided therefore that the three oldest orders be amended to provide (except in the case of an individual whose receipts of milk of his own production, or his Class I milk disposed of on his own routes, whichever is less, do not exceed 2,150 pounds on a daily average basis during the month) that producer-handler status may be maintained only so long as the individual involved relies only on own farm production as a source of supply.

To provide some accommodation for the purchase of specialty items and for protection against unanticipated shortages, a small tolerance should be provided whereby such a handler can in any month purchase fluid milk products, either packaged or bulk, from fully regulated plants under any of the New England Federal orders in an amount not to exceed two percent of the receipts from his own production without affecting his status. A two percent tolerance is presently provided to certain distributing plants to prevent inclusion or exclusion from the pool because of accidental or inadvertent sales in the market. A similar percentage tolerance is appropriate in the purchase of fluid milk products by producer-handlers.

Under existing circumstances it is unlikely that a small operator with no more than 2,150 pounds of own farm production or route sales on a daily basis could be a disruptive factor in these markets. Accordingly, it is proposed that such an individual be permitted to make unlimited purchases, either in packaged form or in bulk, from fully regulated plants under any of the New England Federal orders, without affecting his status as a producer-handler. This provision will serve to accommodate the small producer-handler and at the same time facilitate administration of the order.

In order to maintain producer-handler status, it is provided that the maintenance, care and management of the dairy animals and other resources necessary to produce the milk, and the processing, packaging and distribution of the milk shall be the personal enterprise of and the personal risk of the person involved. These standards are intended to distinguish the family-type operation normally involved, and to bring under full regulation operations which attempt to masquerade as those of producer-handlers in their normal concept through leases, rental arrangements, and other devices designed to circumvent regulation by the order.

Large operations which receive milk from their own farm production, but no milk directly from dairy farmers, and which rely on other plants for substantial supplemental supplies either in bulk or packaged form, are not significantly different from the operations of regular handlers. In addition, such individuals do not assume the risk or cost of providing a full supply. If they are accorded producer-handler status, the pool does not receive the benefits of their Class I sales but acts as a supply balance and carries their necessary surplus. Such operators should not be considered as producer-handlers, but should be accorded status similar to that of any other handler receiving milk directly from farms. If they sell a sufficient proportion of their milk in the marketing area, they would attain pool status and participate in the equalization pool.

The receipt of milk by a handler from a person who is a producer-handler under any Federal order should be regarded as a receipt of unregulated milk, since such milk will not be priced or pooled at the producer-handler's plant. Under the proposed amended definition of a producer-handler in the three oldest orders, it no longer would be possible for a person to retain such status if he received milk from another producer-handler.

The producer-handler definition under the Southeastern New England order appears to have accommodated the situation in that market. Nevertheless, because of the close interrelationship of the Southeastern New England, Boston and Worcester markets it is desirable that identical definition and treatment of producer-handlers be provided under each of these orders. In line with the conclusions previously reached in regard to producer-handlers under the three oldest orders, it is appropriate that the size limitation on small producer-handlers be increased from 500 quarts to 1,000 quarts and such individual should be permitted to receive unlimited quantities of supplemental fluid milk products from fully regulated plants under any of the New England orders in either packaged or bulk form, rather than only in packaged form from Southeastern New England pool plants as presently provided. It is also appropriate that large producer-handlers be permitted a total two percent tolerance for purchasing fluid milk products from fully regulated plants under any of the New England orders in the same manner proposed for the three older orders. These changes will tend to permit producer-handlers under the Southeastern New England order greater flexibility of operation without significant effect to the pool, and will facilitate the operations of producer-handlers doing business in both the Southeastern New England and Boston (or Worcester) markets. Unless similar treatment is provided it is possible that a person doing business in any of the oldest markets and in the Southeastern New England market might meet the producer-handler definition in such older market but nevertheless be required to pool under the Southeastern order.

No change should be made in the definition or treatment of producer-handlers under the Connecticut order. This matter was carefully considered by the Assistant Secretary in his decision of February 9, 1959 (24 F.R. 1049) and, except for the fact that the gallon jug has since been legalized in Connecticut, there were no additional facts offered which were not previously considered. While it is possible that the institution of the gallon jug may have a substantial impact in the Connecticut market, particularly as it relates to producer-handler type operations, it cannot be concluded on the basis of this record that producer-handlers there should be more strictly regulated at this time.

Producer-handlers in Connecticut proposed that the order provision be liberalized to permit them to buy supplemental milk from each other as well as from pool sources. Such individuals already enjoy a preferential market in that they are not required to equalize their Class I sales through the pool. A producer-handler buying milk from another producer-handler is, in fact, buying from another dairy farmer. This is no different than any other handler buying milk from dairy farmers and hence no different treatment should be provided.

4. *Modification of the exempt milk provisions.* The exempt milk provisions of the Boston, Connecticut, Southeastern New England, Springfield and Worcester orders should be modified to restrict their application to the handling of milk dur-

ing temporary periods when the plant in which the milk is normally processed and packaged cannot be used because of extraordinary circumstances beyond the plant operator's control. In addition, the exempt milk provision of each of the New England orders should be extended to include certified milk. However, no change should be made in this provision under the Connecticut order as it relates to the handling of milk between State institutions.

The exempt milk provisions, originally designed to accommodate customs of the local New England markets, have been subject to increasing abuse since early 1956. The three oldest orders were amended on May 1, 1957, to restrict to prescribed emergency situations the privilege of a regulated plant to package milk for an unregulated plant as exempt milk. This action was taken after certain handlers had used the exempt milk provision as a mechanism for influencing blended price relationships between regulated markets and for using unregulated milk for out-of-area Class I sales which otherwise would have accrued to the pool.

The three oldest orders now recognize three categories of milk movements under the exempt milk provisions. The first grants exemption to milk received at a regulated plant from a dairy farmer which is packaged and returned to the dairy farmer. The second permits milk to be received at a regulated plant from an unregulated plant for packaging and returned to the unregulated plant during periods when the unregulated plant cannot operate because of extraordinary circumstances beyond the dealer's control. The third exemption covers milk received at a regulated plant from an unregulated plant as packaged fluid milk products in return for an equivalent quantity of bulk milk.

The Southeastern New England order recognizes only the latter two categories, as does the Connecticut order. However, the Connecticut order also exempts certain movements between State institutions.

While it is probable that certain regulated handlers have used the exempt milk provisions to meet unregulated competition in the surrounding unregulated areas, milk distributed by regulated handlers as exempt milk has been an important factor contributing to the unstable marketing conditions in the areas hereinbefore proposed to be brought under regulation. While the privilege was originally granted to give regulated handlers greater flexibility in procuring special packaging, it has generally been used for an entirely different purpose and has resulted in substantial losses of Class I sales to the regulated markets.

It is recognized that damage caused by storm, fire, flood, and the like may render a plant temporarily unusable and a dealer may have to devise an emergency program for handling milk during such situation. While the orders should not deter the handling of milk under such circumstances, they also should not promote practices which lead to loss of Class I sales by the pool. It is concluded, therefore, that the application of the exempt milk provision as it applies to the processing of milk for regulated plants at unregulated plants should be placed on the same basis now applicable to the processing of milk for unregulated plants at regulated plants i.e., only when a plant is rendered nonoperative under extraordinary circumstances entirely beyond the handler's control. However, the provision should not be applicable in case of ordinary plant breakdown or work stoppages involving situations which are clearly the usual risk of any handler. These are readily distinguishable from extraordinary circumstances which are completely beyond the handler's control.

The exempt milk provisions of the three oldest orders, as they apply to the processing and packaging of milk and return thereof to the dairy farmer who produced it, have also tended to weaken the effectiveness of the Federal order program and should be eliminated. Many dairy farmers distributing their own milk have had complete freedom in utilizing the facilities of regulated plants for custom processing and packaging of their own milk which is then distributed both inside and outside the regulated areas in direct competition with regulated milk. Such transactions in earlier years were inconsequential, but in recent years they have clearly illustrated the inequality of this provision. In the past few years, for example, one dairy farmer has developed a chain of 15 dairy stores which are supplied largely by his own milk under the exempt milk provisions. He enjoys a preferential Class I market without carrying the burden of surplus associated therewith. When he needs supplemental milk he purchases it from the processing handler and his excess milk is delivered as pool milk. He thus enjoys a significant cost advantage over other regulated handlers without substantial investment in processing facilities of any kind. In May 1959 there were 62 dairy farmers, of varying size, utilizing the exempt milk provisions in this manner.

A dairy farmer-distributor should not be permitted to maintain a preferential Class I market outside the scope of regulation. The production resources which he maintains are the same as those of any other producer, and he has no additional investment in processing facilities which entitles him to a preferential return over other producers. His milk is received at pool plants in the same manner as that from other producers, and it should be priced and pooled in the same manner and under the same rules as other producer milk is priced and pooled.

The exempt milk provisions of each of the orders should be extended to include milk which is received, processed and disposed of as certified milk.

A proposal for such exemption under the Boston order was made by a handler now operating as a producer-handler who distributes both certified and regular milk. The milk which he disposes of as certified milk is produced on his own farm and processed in his own plant in accordance with requirements promulgated by the American Association of Medical Commissions. His production in excess of his certified milk requirements is supplemented by purchases from other handlers, and this milk is also processed through his plant after his certified milk is processed and is distributed on his own routes along with his certified milk.

Insofar as can be ascertained from the record, there are only two producers of certified milk in the federally regulated markets of New England, both being in the Boston market. The largest producer of such milk, a multiple plant handler, has been required to pool his certified milk operation since the inception of the Boston order. Notwithstanding this fact, certified milk is a very specialized product, the production requirements for which are far more rigid than for other fluid milk. Certified milk sells for a price substantially higher than that for other milk and it is sold under conditions not generally competitive with other milk. The circumstances under which certified milk is produced and marketed are such that an expansion in its production sufficient to be a disturbing factor in the market appears extremely remote. To the contrary, it has over the years become increasingly of lesser importance volumewise.

Since certified milk is clearly not a competitive product and because of its minor importance and high cost of production it is appropriate that milk produced and disposed of as packaged certified milk or packaged certified skim milk be exempted from pricing and pooling. If certified milk is to be considered as exempt milk under the Boston pool, it is equally appropriate that it have freedom of transfer between plants in the Boston market as well as to plants in other New England markets. The assignment provisions of the several orders as presently constituted, and as hereinafter proposed to be modified, accommodate such movements. However, if Boston handlers are free to move certified milk into the other markets, it is also equally appropriate that handlers in outside markets, federally regulated or unregulated, be provided the same freedom. It is necessary, to implement this conclusion, that the assignment provision of the several orders be modified to permit receipts of packaged certified milk and skim milk to be deducted from Class I prior to the assignment of producer receipts.

Exemption from pooling and filing reports under the Southeastern New England order was requested for charitable and educational institutions which have own farm production and processing facilities. The proponent of this proposal offered no appropriate standards by which it could be determined what institutes or establishments might properly qualify as "charitable" or "educational", and had no specific knowledge of the number or type of institutions which might be involved. While certain exemptions are provided in the Connecticut order they are specifically applicable only to State owned and operated institutions or establishments. These exemptions would not appropriately cover the institution to which proponent's request was directed.

Since the specific institution in question is now operating in the status of a producer-handler and there was no indication of contemplated change in status, there is no apparent need for further exemption from pooling. Exemption from reporting could not appropriately be granted under any circumstances. The order now provides that each nonpool handler shall make reports at such time and in such manner as the market administrator may prescribe. The market administrator thus has discretion as to the type and extent of reports which proponent and handlers in similar status must make, but under any circumstances must require reports at such time and in such detail as is necessary to satisfy himself of the continuing status of the nonpool handler.

It was also proposed that the Southeastern New England order be amended to provide that any dairy farmer, pool handler, producer-handler, or producer with own farm production who used part of such milk, either raw or processed for his family, employees or livestock be exempted from reporting such milk up to a specified limit. A producer-handler is exempted from pricing and pooling under the present provision of the order and makes only such reports as the market administrator may require to determine his continuing status. In the case of a producer, only that milk which is actually delivered to a pool handler is regulated. Hence, the requested exemption would have no substantive value in the case of either producer-handlers or producers; it would have significance only to pool handlers.

The integrity of the Federal regulation is dependent on the requirement that each handler shall be required to make a full accounting of his receipts and utilization in the class in which the milk is utilized and at the specified prices. Milk disposed of for livestock feed is presently classified and priced in the lowest use classification. Milk which is used by the family or given or sold to employees is no different than any other disposition for fluid consumption and properly should be classified and priced in Class I. Producers should not be expected to take a lesser return for their milk simply because the handler wishes to consume it himself or give it to employees.

5. *Revision of the classification, assignment and accounting provisions.* The classification provisions of the Boston order should be revised to provide that bulk fluid milk products moved from a regulated plant of a pool handler or a buyer-handler to fully regulated plants under the Connecticut, Southeastern New Engand, or New York-New Jersey orders shall be classified in the class in which assigned in the transferee market.

Under the present order provisions such transfers are Class I up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk in the transferee plant. This provision is generally applicable to transfers to any plant not regulated under the Boston order.

The existing transfer provisions were drafted to accommodate a situation when much of the New England area was not under Federal regulation and were necessary because the Boston pool carried the reserve supply for the entire New England area. It was appropriate therefore, that the pool obtain a Class I return on milk supplied to surrounding markets. With the advent of regulation in Connecticut and Southeastern New England, the situation has substantially changed. These markets are expected to generally carry their own reserve supplies and the respective orders for these markets are so constructed that, during the season when supplemental supplies would most likely be needed, for fluid uses, milk obtained from any other Federal order market would be assigned to Class I. The mandatory Class I classification under the Boston order tends to deter movements of Boston milk to the two newer markets because of the possible cost to the transferee handler resulting from incompatible classification as between orders. The Connecticut and Southeastern New England orders defer to Boston in the classification of milk moving to Boston and it is equally appropriate that Boston defer in the case of reverse movements. Occasionally, milk has been moved from Boston pool plants to manufacturing plants in the New York-New Jersey market, which carries its own reserve supplies. Such milk should be classified in Class I only to the extent it is assigned to Class I there. Milk normally does not move beyond New York-New Jersey and is not likely to so move unless required for Class I use. Milk moved to such distant markets should be classified as Class I milk.

No change should be made in the procedure for classification of fluid milk products moved from Boston plants to Springfield and Worcester or to unregulated markets. The Springfield and Worcester markets are small markets and carry only limited reserve supplies. They have historically relied upon the Boston pool for balancing supplies and there is no reason to expect that this situation will change. It is appropriate, therefore, that the Boston pool receive a Class I credit on transfers to these markets. This conclusion is equally applicable in the case of transfers to unregulated markets.

Any fluid milk products which a regulated handler transfers to the plant of a producer-handler should be classified as Class I and should not be subject to reclassification. In view of the fact that producer-handlers are accorded special status as to their own production it is only equitable that when such a handler obtains milk from the pool that it be classified as Class I milk. This is necessary to prevent the producer-handler from assigning his own surplus to the pool.

The classification provisions of the Springfield and Worcester orders also should be amended to provide, in the case of fluid milk products transferred to the Connecticut or Southeastern New England markets, that such transfers be classified in the class in which assigned in the transferee market. This procedure is followed in the case of transfers between the Worcester and Springfield markets and to the Boston or New York-New Jersey markets and it is appropriate to extend its application to movements to the two newer markets.

Packaged fluid milk products moved to any plant obviously are intended for Class I utilization and should be so classified on the basis of such movement.

The assignment provisions of the Boston order should be revised to provide general priority of assignment of producer receipts to Class I. Priority of assignment to Class II utilization should be given to receipts from unregulated sources and then to receipts from other Federal order sources. No change should be made, however, in the present procedure under which receipts of packaged fluid milk products from other Federal order plants and receipts of exempt milk are assigned to Class I.

Under the existing order provisions, receipts of outside milk which include Federal order bulk receipts (with specified exceptions for milk originating in the New York-New Jersey market), are assigned to Class II, regardless of the extent of actual Class II utilization in the receiving plant. Each handler accounts to the pool for the utilization value of his total disposition at the appropriate class prices and is credited at the Class II price for all receipts of outside milk. To the extent that Class I utilization exceeds pool receipts, the handler thus makes a compensatory payment on the volume of such excess Class I utilization regardless of the classification and pricing of such milk in the originating market in the case of receipts from other Federal order markets. While the adjacent New England orders defer to the Boston assignment, thus precluding the possibility of a compensatory charge, this would not be true in the case of Federal order receipts from outside the New England area. While there is no indication that milk has been received at Boston pool plants from Federal order markets outside of New England or the New York-New Jersey area or that such milk, if received, was in fact subject to an improper compensatory charge, nevertheless the possibility does exist and should therefore be eliminated.

Under the existing order provisions, bulk receipts of Order 27 pool milk are assigned to Class I during the months of August through March, if classified and priced as Class I under that order, and in the remaining months such receipts are assigned to Class II, in each case regardless of actual use. Under the revisions herein proposed, no differentiation is made between receipts of Order 27 milk and receipts of other Federal order milk. All other Federal order milk is assigned to the highest available use class in the transferee plant after the assignment of producer milk and receipts from regulated plants.

Where importations of other Federal order milk are needed for Class I use, opportunity should be provided whereby the originating market can retain the Class I value of such milk. Since the advent of regulation in Southeastern New England, substantial volumes of pool milk from that market have moved to Boston regulated plants, which milk has been processed there and distributed as Class I milk in both the Southeastern

New England and Boston marketing areas. The Class I utilization value of such milk has in all cases accrued to the Boston pool. In some situations this Southeastern milk was actually needed for Class I use and in other cases the movements were made as the most efficient means of handling milk surplus to the Southeastern New England market. The latter milk displaced Boston producer milk which in turn was held at upcountry points for manufacturing uses.

Southeastern New England interests contend that the present assignment procedure is unfair and that Southeastern New England producers should share in the Class I utilization of any milk moved to Boston plants and utilized in Class I. However, it cannot be concluded that adoption of their views would tend to promote equities as between markets in all situations. It is appropriate in situations where the Boston handler's producer receipts are insufficient to cover his Class I utilization, that other Federal order receipts be credited with the residual Class I sales. Where the movement to Boston plants represents a surplus disposal and the milk involved, in reality, merely displaces available Boston producer receipts, however, the exporting Federal order market has no valid claim to Class I disposition. The modifications in the assignment procedure hereinafter set forth will implement these conclusions.

Situations may arise in which milk is received from several other Federal order markets and the problem becomes one of determining which milk shall be credited with the residual Class I use. In such cases a pro rata assignment provides equitable treatment. However, in cases where the transferee plant has route sales in the originating market, the transfers from such market should take priority of assignment to such residual Class I use up to the equivalent volume of route sales into such market from the transferee plant.

Certain Order 27 interests excepted to the recommended assignment provisions of the Boston order. They suggested that the procedure for assigning receipts from Order 27 plants will tend to increase the incidence of noncompatibility of classification on such receipts as between Order 27 and the Boston order and will tend to deter the movement of milk from Order 27 plants.

As previously indicated the assignment provisions are intended to give priority of Class I assignment to local producers who are the regular suppliers of the market. Under normal circumstances, if Order 27 milk is needed for Class I use it is likely that it would be so assigned under the proposed assignment provisions. Further, this would be true also during the months of April through July, whereas the existing order provisions would provide a mandatory Class II assignment on such milk during these months.

There is no apparent reason why Order 27 receipts should take priority of assignment over receipts from other Federal order markets. The several New England orders, as proposed to be amended, would classify bulk transfers between Federal order markets in the class in which assigned in the transferee market, thus assuring compatibility of assignment of transfers as between the New England markets and other Federal order markets. This modification is expected to materially implement the movement of milk among the New England markets.

The existing assignment provisions of the Boston order are drafted to minimize the transportation costs borne by the pool. No change was proposed in this regard and no change is herein recommended. The general procedure for computing each pool handler's obligation for producer milk received is unchanged.

The assignment provisions of the Springfield and Worcester orders should also be revised to provide that bulk receipts from other Federal order plants except Boston shall be assigned to the highest remaining use class after the prior assignment of local pool receipts. Receipts of Boston pool milk should continue to be assigned to Class I to the extent to which such receipts are classified as Class I under the Boston order, for reasons previously stated. While under the existing assignment procedure receipts from Order 27 pool plants are assigned to Class I and receipts from Worcester regulated plants are assigned by agreement, it is appropriate that such receipts be treated in the same manner as receipts from other Federal order markets except Boston.

Under the modification of the compensatory payment provision hereinafter proposed, no payment would be applicable to other Federal order milk properly classified and priced in the originating market in accordance with its actual use. Accordingly, unless producer milk is first assigned to the highest use value, there can be no assurance that milk from outside markets would not be used to displace producer milk in Class I whenever it was advantageous to the purchasing handler. If the order permitted handlers to obtain such milk for Class I use when it was advantageous to do so while producer milk was utilized in Class II, the order would not be effective in carrying out the purposes of the Act and the market would be deprived of a dependable supply of milk.

The allocation provisions of the Southeastern New England and Connecticut orders should be revised to better implement the intent expressed in the respective decisions of the Secretary (23 F.R. 8205; 24 F.R. 1049) in providing for the assignment of a specified percentage of producer milk to Class II, prior to the assignment of bulk receipts from other Federal order plants. In addition, provision should be made for the clearing of inventories each month by specific assignment of opening inventory to final disposition in the current month.

The milk from producers who are the regular suppliers of milk for the regulated market should be given priority in the assignment of Class I utilization at pool plants. Milk which is received from other sources should be assigned to the lowest available use classification. Notwithstanding, it must be recognized that during the months of shortest production and greatest demand regulated handlers may find it necessary to procure supplemental supplies from adjacent Federal order markets in order to meet their full Class I needs, even though their total producer receipts equal or exceed their total Class I disposition during the month. This situation could exist as the result of day-to-day variations in receipts and sales. While it is not intended that milk from other markets shall displace local producer milk in Class I, nevertheless if producer milk is not available at the time when needed, local producers cannot expect to receive a Class I credit at such times.

The present allocation procedure was intended to implement the procurement of necessary supplemental milk from other Federal order markets without penalty to the handler procuring such supplies. In addition, the Southeastern New England order also provides for a five percent assignment of producer milk to Class II prior to the assignment of other Federal order receipts in other than the months of shortest production and greatest demand. This procedure was provided in recognition of the fact that many smaller handlers had long standing arrangements with Boston pool handlers for procuring certain specialty items or balancing supplies and similarly, this, as in other months, was intended to permit continuation of these relationships to the extent necessary, without penalty to the local handler.

Notwithstanding the intent of these allocation procedures, they have not fully accomplished the intended result. While specified percentages of producer milk are allocated to Class II in the current month, closing inventories have expanded Class II utilization so that significant quantities of necessary purchases from other Federal order markets, particularly Boston, have been assigned to Class II. The procedure for reclassification of opening inventory assigned to Class I in the immediately succeeding month gives priority to producer milk in Class II in the preceding month, including the producer milk specifically assigned to Class II prior to the allocation of other Federal order milk. Accordingly, much of the necessary other Federal order purchases, classified as Class I in the originating market, have nevertheless been assigned to Class II in the transferee market.

Various proposals considered at the hearing would revise the allocation procedures. The intent of all such proposals was freer movement of milk as between markets and greater equities in the classification of other Federal order receipts.

The dissatisfaction with the present provisions stem, in part, from the fact that the three oldest orders generally provide a mandatory Class I classification on milk moving to either Connecticut or Southeastern New England. The classification of bulk milk moving between the several orders in the class in which assigned in the transferee market, as hereinbefore proposed, will relieve the burden which has resulted from incompatible classification of milk moving between orders. Nevertheless, handlers in other markets may be reluctant to sell milk for other than Class I use and it is therefore desirable that the present procedure of reserving specified percentages of producer milk in Class II prior to the assignment of other Federal order milk be preserved. The intent of this procedure, however, will be implemented, if wherever possible, other Federal order receipts are assigned to Class II only to the extent of remaining Class II use, exclusive of closing inventory. In addition, a similar procedure should be followed in the assignment of opening inventories. These changes will simplify the problem of inventory reclassification adjustments by generally permitting final classification of all other Federal order receipts and opening inventories in the current month.

It must be recognized, however, that under some circumstances purchases from other Federal order plants may be so extensive in relation to producer receipts that some Federal order milk is necessarily assigned to closing inventory. Should such inventory be reclassified in the following month a reclassification charge would be necessary on any such milk not classified and priced as Class I in the originating market.

The revisions hereinbefore proposed in the classification provisions of the several orders would provide that milk moving between the local markets be classified in accordance with its classification in the transferee market. Hence, under normal circumstances any other Federal order milk in opening inventory would have been classified in the originating market in Class II. Theoretically, any reclassification resulting from a Class I assignment of other Federal order milk in opening inventory should be returned as a credit to the originating market. However, administratively this would be a complicated procedure and the amounts involved would not appear to justify such procedure. It is concluded therefore that all inventory reclassification credits should accrue to the local pool.

With respect to the Connecticut and Southeastern New England orders, where inventories represent only unpriced other source or producer milk receipts in the immediately preceding month, the computation of each handler's obligations for inventory reclassification should provide for the payment of the difference between the previous month's applicable Class II price and the current month's applicable Class I price, at the nearest plant location from which an equivalent amount of Class II milk was received in the previous month. A similar procedure should apply on any other Federal order milk on which a reclassification charge is required.

The Deputy Administrator concluded that the changes recommended in the allocation procedure, and in the computation of each pool handler's obligation, would accommodate the intent of the various proposals for amendment of these provisions and at the same time generally preserve the principle of priority of Class I assignment for local producer milk. Exceptors pointed out that the proposed changes do not accommodate handler's request for a Class I location differential on Class II milk moved from country plants to plants in the marketing area. They suggested that failure to provide for the application of such differential tends to deter the association of necessary additional milk with the market because of the costs which handlers must bear in moving needed milk to the market which is nevertheless assigned to Class II. They further suggested that this situation has encouraged the procurement of other Federal order milk in lieu of procurement of milk from country pool supply sources.

It is not intended that the order provision shall encourage the movement of milk to the market for Class II use. Milk not needed in the market for Class I use can be handled most economically through manufacturing plants in the country and producers should not be required to bear the costs involved in moving milk from country plants to the market for Class II use. Nevertheless, it is apparent that a handler operating only a fluid milk business must necessarily have available at his bottling plant some milk in excess of his actual Class I utilization. Such reserve is needed to offset unanticipated fluctuations in day-to-day requirements, route returns and normal plant shrinkage. Since such usage is directly associated with the fluid milk business and the milk therefore must be moved to the bottling plant, it is appropriate that a Class I location differential credit is allowed.

The record does not provide a precise basis for determining the volume of milk in excess of Class I usage which must be moved to bottling plants. However, experience in other fluid milk markets indicates that an amount equal to five percent of actual Class I utilization is reasonable and such percentage is considered to be appropriate for this market. It is provided therefore that in the application of zone price differentials an amount of Class II utilization not in excess of five percent of actual Class I utilization in the transferee plant shall be first assigned to direct producer receipts at such plant. This procedure will permit a comparable amount of Class I utilization to be assigned to supply plants and thus increase the volume of transfers on which the handler may recover a Class I location price credit.

No change should be made in the method of accounting required under the Connecticut and Southeastern New England orders. Each of these orders presently provide that milk and milk products shall be accounted for on a skim milk and butterfat basis and priced in accordance with the form in which or the purpose for which such skim milk and butterfat is used or disposed of as either Class I milk or Class II milk. The reasons therefor were fully set forth in the decisions of the Secretary issued in connection with the promulgation of these two orders and there were no new facts presented not previously considered in reaching these decisions.

The classification provisions of the Connecticut and Southeastern New England orders should be amended to provide a specific Class II classification for skim milk and butterfat in the form of fluid milk products lost under circumstances completely beyond the control of the handler or any employee or agent who might be involved. Such classification should be applicable only in the case of plant or truck damage or destruction by fire, flood or other similar catastrophe in which the milk involved was physically destroyed and such loss can be substantiated by records satisfactory to the market administrator. Loss in this manner is not presently provided for under these orders and accordingly, except insofar as covered by the shrinkage allowance, presently would be classified in Class I. The handler, under the circumstances, obviously would realize no return on milk so lost except as he might be covered by insurance. Nevertheless, producers should not be involved and must be remunerated for all the milk which the handler has received from them. A Class II value is concluded to be appropriate under these circumstances.

It is not intended that this provision shall be applicable to milk lost through faulty pipe connections, opened or leaking valves, broken hoses, contamination and similar accidents which must be considered normal business hazards. Milk lost in such manner is part of the normal shrinkage experience in any milk operation and such losses are adequately provided for under the shrinkage provisions.

Under the terms of these orders skim milk and butterfat processed into other than fluid milk products is accounted for as a Class II disposition when such products are made. Losses of such products would not affect the classification of the milk if the loss can be substantiated to the satisfaction of the market administrator.

The classification provisions of the Southeastern New England order should be amended to provide a Class II classification for both skim milk and butterfat contained in any fluid milk product dumped if prescribed conditions are met. The present requirement of six hours notice to the market administrator prior to dumping should be deleted and provision should be made for advance notice of intent to dump at the request of and in accordance with instructions of the market administrator. No change should be made in the requirement for filing reports following dumping under this order or under the Connecticut order.

The present provisions of the Southeastern New England order provide for a Class II classification only for skim milk dumped. Under normal circumstances the butterfat content of any fluid milk product is salvageable for use in ice cream and certain other nonfluid products, and it is unlikely that any handler would find it necessary to dump any significant quantity of butterfat. Nevertheless, should such dumping occur it is appropriate that a Class II classification be provided since cream is a Class II product under this order. Verification of actual quantities dumped is very difficult. Therefore, it is appropriate that the market administrator be given opportunity to witness any dumping operation. The present rigid six hours' notice requirement, however, may be excessive in some situations and may be insufficient in other situations. Accordingly, it is concluded that the manner and extent of advance notice should be left to the discretion of the market administrator. No change, however, should be made in the two-day reporting requirement on any dumping not witnessed by the market administrator or his agent. Verification of such dumping necessarily must be largely on the basis of records, and it would be a relatively simple matter for a handler to simulate dumping on the basis of constructed records intended to cover excess shrinkage experience or incomplete accounting. Such procedure would be greatly simplified if dumpage reports were not required until after summary reports were completed. It is therefore appropriate that unwitnessed dumping continue to be reported as it occurs.

No change should be made in the basis of allocating shrinkage under the Connecticut order. The order now provides a maximum allowance of two percent on producer milk and in cases involving transfer of bulk milk between plants one-half percent is alloted to the receiving plant and one and one-half percent to the transferee plant. Handlers proposed that the shrinkage provisions be changed to conform with those of the other New England orders which generally provide a two percent shrinkage allowance on the total milk handled.

Under normal circumstances it would not be expected that milk would pass through more than two plants in its movement from the farm where produced to its ultimate disposition as fluid milk on routes or in nonfluid products. Furthermore, a 2 percent total shrinkage allowance is a reasonable allowance on any particular volume of milk. This was established in the original hearing as indicated by the Secretary in his decision of February 9, 1959 and was reaffirmed on the record of this hearing. It is therefore unnecessary and would be inappropriate to permit a handler a greater percentage shrinkage allowance in Class II. The problem appears to rest in the distribution of this shrinkage allowance as between plants. The alternative would be to limit the shrinkage allowance to the original receiving plant or to permit agreement between handlers on each load of milk transferred as to who would take the shrinkage or how it should be prorated. This latter procedure would create unnecessary administrative problems and would accomplish no more than can be accomplished under the present provision. The allowance of one-half percent of shrinkage to the original receiving plant is concluded to be a reasonable allowance for receiving operations and gives assurance to the operator thereof that he will be able to account for his actual shrinkage experience, within this limit, as Class II milk. It also assures the transferee handler of a reasonable share of the total allowable shrinkage. Notwithstanding, should the parties involved be proprietary handlers and agree that a different proration would be more equitable between them, appropriate adjustments would be made in the price at which such milk is transferred. Should the transferor-handler be a cooperative, however, any such adjustment of the shrinkage allowance would not be permissible if it resulted in a price less than that provided by the order.

No change should be made in the Connecticut order in the classification of fluid milk products sold to bakeries or in the classification of and accounting for nonfat dry milk used to produce concentrated milk, half-and-half and reconstituted or fortified skim milk. It was proposed that sale of fluid milk products to bakeries be Class I rather than Class II and that nonfat dry milk used to produce or fortify such specified products be accounted for on a volume rather than skim milk equivalent basis. The reasons for the present procedure were fully set forth in the Secretary's decision of February 9, 1959 (24 F.R. 1049), and no new facts were presented not previously considered in adapting the present procedures.

No change should be made in the classification of ending inventory of fluid milk products under the Southeastern New England order. Such inventory is presently classified as Class II in the current month. A reclassification charge of the difference between the previous month's Class II price and the current month's Class I price is made on any opening inventory which is assigned to Class I in the current month. This procedure tends to assure equal product cost among handlers for milk disposed of in Class I. Since the Class I price may change substantially on a month-to-month basis, the classification of ending inventory as Class I would provide substantial opportunity for handlers to speculate by either building or depleting inventories from month-to-month for the purpose of gaining a cost advantage and producers would not receive the full use value for their milk.

6. *Class I price revisions.* The Class I price under the Southeastern New England order should be established at the identical level presently provided under the other four New England Federal orders in lieu of the seven-cent higher price presently provided. This present price level was established on the basis that Boston handlers dispose of substantial quantities of milk into the Southeastern area, both directly on routes and by bulk shipments to regulated plants, and the seven-cent differential was intended to reflect the transportation cost of moving milk between Boston and Providence. In addition, since the Southeastern New England market was a deficit market a higher price would encourage the association of additional milk supplies, and thus contribute to a general alignment of blended prices as between markets.

While blended prices have tended to equate, largely through the application of the pool plant, transfer, and classification provisions, the Southeastern pool has lost increasing volumes of Class I sales to the Boston pool. Many areas of the Southeastern market are as favorably located in relation to Boston as to Providence and accordingly the present seven-cent differential is not a true measurement of transportation costs. Multiple plant handlers, with plants in both the Boston and Southeastern pools, have tended to increase their Boston distribution in the Southeastern area because of the price differential. Other handlers have adjusted their business to assure regulation under the Boston rather than under the Southeastern order. Still other handlers have disposed of their local producers in favor of Boston pool purchases; and finally, handlers buying supplemental milk have increased their procurement of Boston pool milk.

The manner in which handlers have adjusted their business since the initiation of regulation in Southeastern New England clearly demonstrates that the higher price in this market has generally operated to the detriment of local producers. Recent shifts and projected shifts in distribution operation of the larger handlers point up the need for an identical Class I price level as between the New England markets. Further, the area extensions hereinbefore recommended will substantially increase the interrelationship of the two markets and unless identical price levels are established, the Southeastern pool will undoubtedly lose substantial Class I sales as fringe area handlers adjust their procurement programs to eliminate the advantage which their Boston competitors now enjoy.

No change should be made in the Class I pricing provision of the Connecticut order relative to packaged fluid milk products sold on routes in the Order 27 marketing area or to the Order 27 pool plants.

One Connecticut handler with route sales into the Order 27 marketing area contended that he operates at a competitive disadvantage with Order 27 handlers wherever the Order 27 Class I price is less than the Connecticut Class I price. He proposed that the possibility of this situation occurring be eliminated by requiring him to account for his Class I sales in the Order 27 area at the applicable Order 27 price.

The classified pricing plan in effect in the Connecticut order, and generally applicable in all orders issued by the Secretary, establishes one level of price for milk which is sold as fluid milk products for fluid consumption and another, lower price, or prices, for the necessary surplus of the market which is disposed of in lower valued manufactured products. It is intended that the price level effective under the Connecticut order shall bring forth an adequate supply to meet the fluid demand of the marketing area, but not necessarily a quantity to fulfill the requirements of outside markets at prices different from the price established for milk sold in the marketing area. Producer milk sold for fluid uses outside the Connecticut marketing area has the same characteristics of bulk and perishability, is produced under identical conditions and costs, and is subject to the same transportation costs of moving from the farm to the handlers' pool plant, as is milk disposed of inside the marketing area. Different health and sanitation requirements in the New York-New Jersey market might result in somewhat different costs of producing milk for this market only, but would have no effect on cost of producing milk sold to Connecticut handlers.

Class prices in the New York-New Jersey market may be either higher or lower than such prices in the Connecticut market. Under usual circumstances the variation in basic price for milk of similar quality and use in the various Federal order markets reflect differences in transportation costs only. These basic prices may be adjusted to reflect differences in seasonality of production and the local supply-demand situation. The New York-New Jersey and New England order Class I prices generally have been maintained at very nearly the same level over the longer term. While the New England prices have been somewhat higher than the Order 27 prices during the past year, this is a temporary situation, largely the result of new regulation in Southeastern New England and Connecticut.

7. *Class II price.* No change should be made in the level of the Class II price under the several orders. The Class II price under each of the orders is presently established by an identical formula and basically at the same level. The Class II location differentials reflect the cost of moving fluid cream from each zone to the market. In addition, the Boston order provides a butter-cheese adjustment applicable to milk disposed of in butter and hard cheeses during the months of April, May, June, and July under specified circumstances when the Class II price is computed on the basis of cream and nonfat dry milk quotations.

It was proposed that Class II price at plants in the marketing area be increased by an amount reflecting the cost of moving nonfat dry milk to the market from the 201–210 mile zone and that the location differentials be increased to reflect such transportation costs. It was also proposed that the Class II price under the Connecticut order be increased by 10 cents during the months of July and August, and that a butter-cheese adjustment be provided in that order to be effective during the flush production months.

As has been previously indicated in this decision, a large proportion of the surplus manufacturing facilities in the New England area are associated with the Boston pool and Boston pool milk not needed for fluid use is held upcountry for manufacture. Much of the surplus in the other markets is moved to Boston bottling plants where it replaces an equivalent amount of Boston pool milk for Class I use, which is in turn held upcountry for manufacturing uses. This procedure tends to minimize transportation charges for moving milk and results in maximum savings to the pools and to producers. The bulk of the Class II disposition in the marketing area represents milk of local producers processed through manufacturing facilities maintained by cooperative associations. In large measure, the milk processed at such plants represents the seasonal surplus and reserve supplies of smaller handlers, and, except for the existence of these facilities, some producers in the nearby areas would be left without a market for their milk.

The basic Class II price is directly related to values for milk utilized in manufactured products which compete in a national market. Cooperative associations operating plants in the marketing area would be placed at a competitive disadvantage with a higher marketing area Class II price, and it is likely that the milk of local producers in excess of Class I needs would be left without a regular market.

A higher marketing area Class II price would apply to only a small fraction of the total milk supply in the New Enland markets, and would not materially affect the cost of Class II milk for multiplant handlers. Handlers operating only country plants would not be affected at all by such increased Class II price. Accordingly, no change should be made in the marketing area Class II price or the Class II location differentials on the basis of this record.

An increase in the Connecticut Class II price during the months of July and August without a corresponding increase in the Class II price in the adjacent Federal order markets would tend to deter the association of milk with the Connecticut pool during these months. The months of July and August are the initial qualifying months for automatic flush season pooling in Connecticut and are proposed herein to be such under each of the New England orders. Under the revised pooling provisions herein recommended, plants could retain pooling status under one of the other New England orders during July and August to benefit from a lower Class II price and still qualify for automatic pooling status under the Connecticut order during the flush months. This procedure would tend to produce greater disparities in producer prices as between markets during July and August to the detriment of producers in adjacent markets. Such a situation would not tend to promote orderly marketing in the area.

Exceptors pointed out that the Class II price under the Connecticut order is 1.2 cents below the Boston Class II price at the 201–210 mile zone and that adoption of their proposed 10-cent increase in the Connecticut Class II price during the months of July and August would have equated more nearly the Boston and Connecticut Class II prices at up country plants on an annual basis. They further suggested that the "pay-back" under the fall incentive pricing plan during the months of July and August should tend to encourage association of additional milk with the Connecticut market during those months and would offset any incentive handlers might have to associate milk with other New England markets during those months because of a higher Connecticut Class II price.

The "pay-back" under the fall incentive pricing plan does not affect handlers' costs for milk during such months since such monies have been withheld from the pool in previous "take-out" months. Under usual circumstances the Boston blended price is the competitive price which non-Boston handlers must meet to hold producers at upcountry points. Accordingly, notwithstanding the position of exceptors it is likely that a higher Class II price under the Connecticut order during the months of July and August would provide substantial inducement for handlers to disassociate with the Connecticut pool during those months.

Existing manufacturing facilities in the Connecticut market and available in the adjacent Federal order markets are sufficient to handle any prospective market surplus. No consequential volumes of milk have been processed into butter or cheese and it would be inappropriate to encourage such disposition when adequate facilities exist for processing milk into higher valued manufactured products.

8. *Pricing of diverted milk under the Connecticut order.* The Connecticut order should be revised to provide for the pricing of diverted milk at the location of the pool plant from which such milk was diverted. The number of days of diversion permitted should be revised to 8 days during the months of July through September and 12 days during the months of October through March, with unlimited diversion permitted during the months of April through June. However, diversion privileges during any month of April through June from a given plant location should be permitted only for the milk of those dairy farmers who held producer status during the entire two immediately preceding months at a plant(s) in the same zone location as the plant from which diversion is claimed.

Under the existing order provisions, diverted milk is priced at the location of the plant to which diverted, and producers are paid for such milk on the basis of the same location. Twelve days of diversion are permitted in any of the months of July through November and unlimited diversion is permitted in the months of December through June.

Unlike the other New England orders, which deter handlers from withholding milk from the market during the short months of production and then receiving it as producer milk during the flush production months when outside Class I markets may not be available, the Connecticut order was drafted so as to facilitate free entry of producers to the market at any time. Liberal diversion provisions were included to assure orderly disposition of milk in excess of fluid needs. It was recognized, however, that under such provisions, handlers might associate with plants in the marketing area milk which was not intended essentially for fluid milk consumption in the market, but rather for the purpose of drawing the marketing area blended price, notwithstanding the fact, that such milk was received on a regular basis at upcountry manufacturing plants. To deter this result, it was provided that diverted milk should be priced at the plant to which the diversion was made.

Producers contend that the present pricing provisions do not provide for equitable returns among all producers and that the varying prices returned to individual producers whose milk may be diverted part of the month creates confusion and dissatisfaction in the production area.

It is concluded that milk which has a bona fide association with the local market, but which is diverted when not needed for fluid uses, should be priced at the plant from which diverted. However, to protect the integrity of regulation more limited diversion privileges are needed to establish more clearly what milk is, in fact, sufficiently associated with the market to justify participation in the pool. During those months of greatest need and lowest production there is little need for diversions except to assure the orderly disposition of week-end and other short-run surplus. Diversions on 8 days (4 days in the case of every-other-day delivery) during the months of July through September and 12 days (6 days in the case of every-other-day delivery) during the months of October through March will accommodate this situation.

The Deputy Administrator in his recommended decision concluded that no restriction on diversion privileges to nonpool plants was necessary during the months of April through June. He pointed out that these months were the months of "take-out" under the seasonal incentive pricing plan and that it would be unlikely that any substantial additional supplies would associate with the market during these months unless there was a prospective outlet for such milk during the "pay-back" months.

Exceptors contend that the above inclusion is not valid since the order prices at plants not subject to zone location differentials is substantially in excess of 15 cents higher than prices at upcountry plants. They suggest that there would be a real incentive to associate upcountry milk with plants in the marketing area, on the basis of brief delivery, for the purpose of drawing the market area price during the April–June period. They further suggest that this incentive would exist both for milk not previously associated with the market as well as for milk regularly associated with upcountry pool plants.

It is concluded that some safeguards are needed to deter pool riding during the April–June period and to deter changes in point of pricing in the case of producers normally associated with upcountry plants. This can best be accomplished by providing that producer milk may be diverted to nonpool plants during any month of the April–June period only if the dairy farmer producing such milk held producer status during the entire two months immediately preceding the month in which the diversion is claimed at a pool plant(s) in the same zone location as the plant from which diversion is claimed.

This restriction in diversion privileges will not deter producers from entering the market during the April-June period if the milk is needed for fluid uses. It also will not preclude producers, previously associated with more distant plants, from associating with plants nearer, or in the marketing area, if such milk is regularly received at such nearer plants. It will, however, discourage association of distant producers with nearby plants during the April–June period if the milk is not needed since it is likely that such milk would merely replace other producer milk which would then have to be diverted. The cost to the handler of diverting nearby milk would leave little incentive for adding producers or shifting the point of receipt.

9. *Compensatory payments.* No change should be made in the application of the compensatory payment provisions under the Southeastern New England and Connecticut orders. The need for and basis of making such payments was clearly established in the respective decisions of the Secretary (23 F.R. 8205; 24 F.R. 1049) in the promulgation of these orders and no evidence was presented at this hearing which was not considered in reaching the conclusions set forth in those decisions.

The compensatory payment provisions of the Boston, Springfield and Worcester orders should be revised to eliminate such payments on receipts from other Federal order markets which were classified and priced as Class I in the originating market. The amount of compensatory payment on unregulated milk used in Class I, in all cases, should be the difference between the applicable Class I and Class II prices at the location of the originating plant. The compensatory payment on unregulated milk from the States of Connecticut, Massachusetts, Rhode Island, and Maine no longer should be computed on a different basis.

The minimum class prices established under each of these orders apply only on producer milk received at plants subject to full regulation under such order. However, milk may be disposed of for Class I utilization by and from plants not subject to full regulation. Such unregulated plants may sell milk in bulk form to fully regulated plants that in turn use it in supplying their Class I outlets or they may sell Class I milk directly on routes in the marketing area, including sales to government installations.

The role of the compulsory classification system and the minimum prices as set forth in a Federal order is to insure that the price competition from reserve and excess milk will not break the market price for Class I milk, thereby destroying the incentive necessary to encourage adequate production. Because the classified pricing plan of an order is applicable only to fully regulated plants, it is necessary, in order to provide continued stability in the market, to remove any advantage an unregulated plant may attain with respect to sales in the regulated market. Such plants have a real financial incentive to find a means to sell excess milk at prices somewhat less than current Class I levels so long as the price is higher than its value when used in manufactured dairy products. If unregulated plant operators were allowed to dispose of their surplus milk for Class I purposes in the regulated market without some compensatory or neutralizing provision in the order, the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the regulated market. The plan of Congress as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of maintaining reasonable prices to the producers for the regulated market, would be defeated.

Provisions for compensatory payments are necessary in each of the respective orders to insure against the displacement of producer milk for the purpose of cost advantage and to thereby preserve the integrity of the classified pricing programs of such orders.

Provision for partial regulation through compensatory payments makes it possible for a handler operating outside the regulated market to use the facilities of fully regulated plants for disposing of surplus milk not needed for his outside market without imposing the financial burden of such surplus on producers of the regulated market. Compensatory payments also make it possible for a handler outside the regulated market to maintain small amounts of regular sales in the regulated market without subjecting his greater outside sales to full regulation.

Requiring such outside handler to be fully regulated would mean that he would be required to account to the pool at the full Class I price for all of the milk sold outside the regulated market which is in competition with milk not subject to regulation. Such a requirement for a dealer with little business within the regulated market could readily induce him to abandon his sales in the regulated market. Permitting a handler to continue to sell milk to customers in the regulated market without any form of price regulation would give such handler a competitive advantage as compared to the handler whose primary business is within the regulated market and who consequently is subject to full regulation.

There are a number of local dealers in the area immediately adjacent to the regulated markets who now have direct distribution in the several regulated markets, some of whom maintain unregulated status under the present orders. The area extensions, hereinbefore recommended, may change the status of some of these handlers. In addition, however, other local handlers, not presently doing business in any of the regulated markets, under the amended orders, will have sales in the regulated markets but will operate in unregulated status. Also, there are a number of substantial dealers in the adjacent unregulated areas, many of whom could readily extend their distribution routes into the regulated markets and by preserving their unregulated status could operate with a substantial price advantage over regulated handlers. The compensatory payment provisions prevent such unregulated milk from having a price advantage over regulated milk.

The compensatory payment applicable to unpriced other source milk disposed of in the regulated markets from distributing plants which do not acquire pool status should be the same as those applicable to other source milk distributed from pool plants. It would not be possible to maintain market stability in the New England regulated markets under the classified pricing programs in effect, and as herein proposed to be amended, if nonpool handlers were allowed to distribute unpriced milk in the marketing area without compensatory payments. Handlers distributing such unpriced milk in the regulated markets have the same opportunities to buy milk at the opportunity cost level as do the operators of pool plants who purchase other source milk. In addition, however, the operator of a nonpool plant would undoubtedly have surplus milk in his own plant which he would willingly dispose of on any basis that would yield a higher return than the surplus value. It would be particularly easy to dispose of such milk for Class I use in the regulated markets by bidding for large contracts such as hospitals, defense establishments and other types of institutions. With surplus outlets as the alternative, and no compensatory payments to make, the nonpool handlers would have considerable incentive or margin to underbid the seller of priced milk for such sales. Providing for some method of compensating for, or neutralizing the effect of, the advantage created by unregulated milk, therefore, is an essential and necessary provision of the order.

The rate of compensatory payment on outside milk should be the difference between the Class I price and the value of milk for manufacturing uses at the zone location of the originating plant. Class I milk under the New England orders is priced at the plant where the milk is received from producers. Hence, the compensatory payment on outside milk which is assigned to Class I milk should be computed at the same stage of marketing process to be directly comparable. No allowances are made under the orders for costs or profits of handlers in moving producer milk in subsequent stages of marketing. Neither should they be made for outside milk.

The Class II price established under the orders is considered a fair and economic measure of the value of milk in manufacturing uses in New England and hence represents an appropriate value for outside milk not sold in a Class I outlet.

No compensatory payment should be applicable on other source milk which has been classified and priced as Class I in the originating Federal order market.

The Secretary has, in fact, determined that the Class I price applicable on such milk at the originating plant was appropriate under similar price criteria, and it is intended that such milk shall be free to move into whatever market it finds an outlet, without further pricing. The Class I prices under Federal orders are established at levels which are intended to bring forth an adequate, but not excessive supply of milk for the regulated market and prices as between markets are generally aligned, reflecting only differences to compensate for transportation costs involved in moving milk between markets and the supply-demand situation in the local market. Normally, the price in any particular market will not be higher than the cost of purchasing alternative supplies. If a price does become misaligned the remedy is not to impose a compensatory payment but rather to adjust the price.

A unique situation exists in the opportunity available to handlers to move certain fluid milk products from the New York-New Jersey market (Order 27) into the New England markets at considerable cost advantage over similar products priced under the New England orders. This situation provides an opportunity for handlers in the New England markets to purchase such products for Class I disposition from Order 27 plants at prices which reflect only manufacturing milk values. This is not a problem of price alignment as previously discussed, but a difference in classification. This situation best can be dealt with by the application of compensatory payments to remove any cost advantage in the use of such products from Order 27 plants. Such payment should be at the difference between the Class I price and the Class II price under the respective New England orders for the zone location of the originating plant.

10. *Take-out pay-back plan.* No change should be made in the seasonal incentive pricing plan presently provided under the Connecticut order. The seasonality of pricing in the Class I pricing formula under the Connecticut order is identical to that under the other New England orders. In addition, the order now provides for a deduction of 15 cents per hundredweight from the amounts otherwise payable to each producer during the months of April, May and June, and one-third of the aggregate amount of such deduction is paid to producers on a hundredweight basis in each of the months of July, August and September. Producers proposed that the amount of the "take-out" be increased to 25 cents while handlers proposed elimination of the plan.

A "take-out and pay-back" plan was operated under the State milk order in the Connecticut market for a number of years and such plan was effective in promoting a more even production pattern in the market. With the advent of Federal regulation in April 1959, the Secretary concluded that such a plan would complement the seasonality of pricing set forth in the pricing formula in encouraging a more even seasonal pattern of production.

The order has not been in effect a sufficient time to appraise the effectiveness of the present pricing mechanism in achieving its intended result. It cannot be concluded therefore that elimination of the take-out-pay-back plan is desirable or necessary. Neither is it apparent that a higher take-out is desirable. The Connecticut price generally has been favorable in relation to the prices paid in adjacent competing markets and the greatest differences have occurred in the pay-back months of July, August and September. The amount by which the Connecticut price has exceeded the price in adjacent markets during these months should be sufficient to attract an adequate milk supply. Therefore, no change should be made in the plan at this time.

11. *Nearby farm location differentials.* No change should be made in the nearby farm location differential provisions in the Connecticut order. The present provisions provide for the deduction from the pool of sufficient funds to return to producers in specified nearby areas 46 and 23 cents, respectively, in excess of the applicable uniform price. The present 46-cent nearby location differential area includes all of the State of Connecticut, that portion of New York State lying east of the Hudson River and south of the New York State Extension of the Massachusetts Turnpike, and that portion of Massachusetts lying south of the Massachusetts Turnpike. The present 23-cent nearby location differential area includes that portion of New York State east of the Hudson River, north of the New York State extension of the Massachusetts Turnpike, and south of the northern boundaries of North Greenbush, Sand Lake and Stephentown townships in Rensselaer County.

Various proposals considered at the hearing would eliminate the nearby location differential, extend the 46-cent area, and extend the 23-cent area.

As stated in the Secretary's decision of February 9, 1959 (24 F.R. 1049), the present provisions were established in recognition of the higher Class I utilization, and higher returns that nearby producers had customarily received over more distant producers. In addition, the use of a nearby differential was expected to implement price alignments with adjacent Federal order markets and thus assure Connecticut handlers of the ability to compete in the purchase of milk on reasonable terms with dealers in adjacent markets.

Notwithstanding the intent of the nearby location differentials nearby producers in the Connecticut market have, in fact, gained only slightly from such differentials. More than 90 percent of the total milk in the pool has been subject to these differentials and accordingly nearby producers in the 46-cent area have paid from 40 to 43 cents to gain 46 cents. Although the Connecticut blend prices have been substantially in excess of the New York-New Jersey price in competing areas, this situation would not have been changed appreciably in the absence of a nearby location differential provision. Perhaps a more restricted area might have implemented price alignment to a greater extent in Columbia County, New York. The record of this hearing, however, does not provide an adequate basis for revising the existing areas.

Proponents for extension of the nearby differential area contended that adoption of their proposals would make all the direct delivery milk eligible for the farm location differential and would eliminate price differences presently existing between neighboring farms delivering milk to the same plants. While this would result, it must be recognized that further extensions would merely increase the presently existing price disparities between Connecticut and New York-New Jersey in parts of Columbia and Rensselaer Counties. In addition, the territory of proposed extension is also a Boston supply area. Any increase in the Connecticut price at this point would create further procurement problems for Boston handlers operating here. Therefore that extension of the existing area would not accommodate the situation.

Complete elimination of the nearby farm location differential would improve slightly the price disparities existing in the Dutchess County and Columbia County areas now in the 46-cent area and would not significantly affect returns to producers in Connecticut. It would, however, increase the price to producers in the existing 23-cent area by about 17 cents and the price to upcountry producers by about 42 cents, where Connecticut prices already exceed prices in competing markets. Hence, elimination of the nearby differential would merely extend the problem of disparate prices as between markets in a common supply area.

On the basis of this hearing record it is concluded, therefore, that no changes should be made in the nearby farm location differential provision of the Connecticut order.

The nearby differential area under the Worcester order should be extended to include the towns of New Ipswich, Greenville, Mason, Brookline, and Hollis, New Hampshire. These towns are presently in the location differential zone under the Boston order. Handlers who would be brought under regulation by the extension of the Worcester order as hereinbefore proposed buy milk from producers in the towns of New Ipswich, Greenville, and Mason. Unless these towns are included, it is likely that these producers will seek an outlet with Boston handlers to take advantage of the higher price paid producers in the nearby area. At least one Worcester producer is located in the town of Hollis and it is likely that additional supplies would be procured from this area if the Boston and Worcester prices were better aligned at this point. Brookline, which lies between Hollis and Mason, should be included in the same differential areas as these two towns.

Extension of the marketing areas as hereinbefore proposed would step-up competition for milk supplies in the immediately adjacent local areas. For competitive reasons it is desirable that producers qualifying for the nearby differential under the Boston order should likewise be in a position to qualify under the Worcester order.

No change should be made in the nearby location differentials presently provided under the Boston, Worcester, Springfield, and Southeastern New England orders. The existing rates have provided appropriate competitive price alignment between the nearby and upcountry areas and among Federal order markets.

12. *Revision of payment dates.* The Greater Boston, Springfield and Worcester orders should be revised to provide for final payment to producers by the 20th day of the succeeding month. No change should be made in dates of payment to producers under the Southeastern New England order. However, the date for making payments to the administrative and marketing service funds should be advanced from the 20th to the 16th day after the end of the month to correspond with the date for making payment to the producer-settlement fund.

The three oldest orders presently require final payment to producers by the 25th day of the succeeding month while the Southeastern New England order requires payment by the 20th day: Bargaining cooperatives with producer members under the three oldest orders proposed advancement of the payment date to the 20th while operating cooperatives generally opposed the proposal. Handlers under the Southeastern New England order proposed moving the payment date provided in that order to the 25th day.

It is desirable that producers be paid as promptly as possible after the end of each pooling period. Under the existing payment schedule of the three oldest orders handlers actually may retain monies due producers for 40 days in the case of deliveries made on the 1st and 16th of the month and a maximum of 25 days in the case of deliveries made on the 15th and the 30th of the month. This appears to be an unreasonably long time to require producers to extend credit to handlers. Since the uniform price is announced on the 12th day of the succeeding month requirement of payment by the 20th should provide adequate time in which to clear the pool, prepare producer payrolls, and issue individual producer checks. This can be accomplished by requiring payments to the pool on the 18th of the month and payments from the pool on the 20th of the month.

Payments to the administrative fund and the marketing service fund should be required on the 18th, when payments are due the producer-settlement fund.

With the advancement of final payment to the 20th, it is appropriate that the advance payment date for milk received during the first fifteen days of the preceding month be advanced to the 5th of the month. The existing provision which waives the advance payment if final payment is made by the 17th should be deleted. All other payment dates are being advanced five days. This date cannot be so advanced because handlers could not be required to make final payment on the day that the blended price is announced.

While handlers who have not previously made payment before the 25th will necessarily have to make adjustments in order to make payments by the 20th, the benefits to producers of earlier payments necessarily outweigh any additional cost to handlers. Some of the large handlers operating in the three markets customarily have paid by the 20th of each month and many Federal orders require final settlement by the 15th day after the end of the month. Requirement of final payment by the 20th is therefore reasonable and appropriate.

No change should be made in the date on which handlers are required to file reports with the market administrator. Sufficient time must be provided for processing individual handler reports preparatory to the announcement of the blended price, clearing of the pool, and payment of producers. No additional time can be provided if this schedule is to be met.

Under each of the five New England orders the date on which the interest charges on overdue accounts accrue should be changed to the day following the clearance date of the producer-settlement fund. The Greater Boston, Springfield and Worcester orders now specify the 11th day of the month following that in which payment is due for the addition of interest charges, while the Southeastern New England and Connecticut orders provide for computing such interst charges from the first day of the following month.

The effect of the interest charges on overdue accounts is to encourage timely payment of obligations. Prompt payment of obligations is important to effect clearance of the producer-settlement fund and to assure that sufficient funds are available to complete payment to creditor handlers.

Certain handlers under the three oldest markets have found that payments to the producer-settlement fund can be delayed under the present orders until the 10th day of the following month without penalty and they consistently delay payments until such date. If all handlers were to avail themselves of this opportunity, the pool would become bankrupt before clearance could be made each month unless a substantially larger cash reserve were to be retained by the market administrator.

When credit is extended it is only good business practice for the creditor to be remunerated with appropriate interest and such interest should begin to accrue promptly when any obligation becomes overdue.

13. *Marketing service provision in the Boston order.* Provision should be made in the Boston order for performing marketing services for producers, such as verifying the weights and tests of producer milk and dissemination of market information. The services should be provided by the market administrator and the cost should be borne by the producers receiving the services. Where a cooperative association is actually performing for its member producers the services which the market administrator would otherwise provide under this provision, such producers who are members of such an association would not be subject to the marketing service deduction.

While a market service provision has not been included in the Boston order in recent years, a similar provision is provided in each of the other New England orders. Necessarily, because of the importance of the Boston market in the New England area, the marketing information disseminated by the respective market administrators of the other New England orders has generally covered the highlights of the Boston market. Such information, compiled and disseminated at the cost of nonmember producers in the adjacent markets, has been generally available to Boston producers on direct request or through the medium of the State Universities, extension agencies, and local newspapers. Accordingly, Boston producers should stand their proportionate share of the cost of such work.

In addition, the States from which Boston draws its milk supply have in the past conducted extensive butterfat testing programs and have supervised adequately the checking of scales at country plants. With the advent of bulk tank handling, however, the situation has changed significantly. The samples for butterfat testing must be taken, and checking weights of producer milk must be done at the farm rather than at the plant in the case of producers with farm tanks. Hence the work previously done at less than a hundred country plants must now be carried out at hundreds of farms which have no cooperative affiliation. The respective States have neither the personnel nor the funds to carry out an adequate check testing and weight verification program. It is desirable, therefore, that funds be available to supplement the State work to the extent necessary.

Provision should be made for a maximum deduction of two cents per hundredweight on receipts of milk from all nonmember producers. This rate of deduction appears reasonable in view of the substantial number of producers involved, and should provide the necessary funds to support an adequate marketing service program. Should experience indicate that such service can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of calling a hearing to consider the matter.

No change should be made in the maximum rate of the marketing service deduction allowable under the Southeastern New England order. This is a maximum rate and provision is made whereby it can be reduced should it be determined that the services can be performed for a lesser rate.

Under usual circumstances the determination of a lesser rate than the maximum prescribed by an order is the responsibility of the Secretary. However, the Southeastern New England, Springfield, and Worcester orders each provide that this determination shall be made by the market administrator. It is desirable that this responsibility be retained by the Secretary since he has the responsibility of determining which cooperatives are qualified associations and which associations actually are performing adequate marketing services. Because of the general overlapping of the supply areas for the New England markets it is desirable that generally compatible marketing services be performed by each market administrator. This can best be accomplished if the decision is left to the Secretary as to the amount of funds necessary.

14. *Administrative assessment.* No change should be made in the maximum rate of the administrative assessment prescribed under the Southeastern New England order. The rate of 5 cents per hundredweight set forth in the order is a maximum rate and provision is made whereby such assessment may be reduced by the Secretary at any time he determines that a lesser amount would provide sufficient funds for the administration of the order. Official notice is taken of the fact that effective December 1, 1959 the rate of assessment was reduced from 5 to 4½ cents per hundredweight. The proposed change to 2 cents per hundredweight would not provide adequate administrative funds.

The administrative assessment should not be extended to cover producer-handlers. The order is intended to exempt producer-handlers except for the filing of reports as required by the market administrator to permit ascertainment of continuing status as producer-handlers. Except for intermittent verification of reports no substantial time or money would be involved in administration of the order as it applies to producer-handlers, and it is therefore neither necessary nor appropriate that they be required to contribute to the administrative assessment fund.

As has been previously indicated, it is intended that the orders shall permit free movement of milk as among regulated markets. In line with this conclusion, it is desirable that there be no administrative assessment on receipts from other Federal order markets. Such milk is subject to administrative assessment in the originating market, and the assessment rate may be more or less than the rate in the transferee market. Since primary responsibility for audit of the originating handler's books and records would rest with the market administrator in the originating market, the local market administrator would incur little expense in connection with such milk. Accordingly, the administrative assessment provisions of each of the New England orders, except Connecticut, should be revised to implement this conclusion.

15. *Miscellaneous.* The handler definitions under the Southeastern New England order should not be revised to include the operator of a plant located in the marketing area from which no fluid milk products are disposed of directly or indirectly in the marketing area.

The existing provision defines a handler as any person who operates a plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area. This definition is sufficiently broad to include any plant operator who could conceivably have any monetary obligation to the pool.

Proponents argued that their proposal would simplify the problem of order administration by requiring a report from any plant located in the marketing area, which plants could conceivably have disposition in the marketing area.

Any plant with marketing area Class I disposition must report under the existing provisions of the order. The proposed change would in no way alter such handler's obligations under the order. It would, however, place an additional burden on certain plants for which reports would serve no useful purpose.

The "dairy farmer for other markets" definition under each of the orders, other than Connecticut, should be modified to exclude a dairy farmer whose milk is delivered to a pool plant during the flush months of December through June but who was not a producer during each of the months of July through November because the plant to which he now delivers was a pool plant under another Federal order.

With the greater flexibility provided for plants to move between pools it is essential that the dairy farmer regularly delivering to a plant retain producer status in the same market in which such plant is currently pooled. Unless this is accomplished dairy farmers who have held producer status on a month-to-month basis throughout the short production months, but not necessarily in the same market, would be denied such status during the flush, notwithstanding the fact that the plant to which they have customarily shipped currently held pool plant status. This result would defeat the purpose of the liberalized pooling requirements since plants would be deterred from shifting from one market to another because of the prospective loss of producer status by their regular shippers during the flush months.

Subparagraph (1) of the "dairy farmer for other markets" definition in the three oldest orders, which deals with the dairy farmer whose milk is purchased by a dealer who does not operate a regulated plant but whose milk is moved to a regulated plant directly from the farm should be revised to exclude an individual who is a producer under another Federal order. The Secretary's decision of March 24, 1959 (24 F.R. 2441) clearly established that it was not intended that this definition should include a dairy farmer who was a producer under another Federal order but whose milk was diverted to a regulated plant. The amendatory language, while implementing this conclusion as it relates to a situation where only one handler is involved, did not cover the situation where the unregulated plant is operated by a different handler. While no situation has thus far arisen involving this sort of transaction, it was proposed at this hearing that the revision be made to conform with the intent of the aforementioned decision.

The "dairy farmer for other markets" definition under the Southeastern New England order should also be further modified to exclude a dairy farmer who is a producer under another Federal order and whose milk is received at a fully regulated plant as diverted milk.

It is intended that handlers have the privilege of diverting producer milk in bulk under one order to a plant regulated under another order. Under many circumstances this represents the most efficient means of handling bulk tank milk and it is unnecessary to require physical receipt at the transferring handler's plant. Milk so diverted should be treated as an interorder transfer and classified and priced in the class assigned to the transferee market.

The "dairy farmer" definition under the Southeastern New England order should be clarified by changing the reference "bulk" milk to "milk delivered in other than packaged form". The term "bulk" milk, as now generally used refers to milk moved via bulk tank as contrasted to cans. In order that there can be no question of meaning, it is appropriate that the reference to bulk milk be deleted.

With the advent of bulk tank handling the dairy farmer under normal circumstances loses control of his milk when it is transferred at the farm from his farm bulk tank to the handler's pickup tanker. In some instances milk actually picked up by the handler at the farm may be lost through accident enroute to the plant. In such event the milk cannot be received at a plant and the present provision of the order would not require the handler to account for it. In such situations the handler has, in fact, taken over responsibility for the milk and he should be held responsible for it. This can be accomplished by revising the producer milk definition in the Southeastern New England order to include milk actually picked up at the farm but not delivered to any plant, if milk was received at the handler's pool plant from such dairy farmer during the same month as producer milk.

The producer definition under the Southeastern New England order should be revised to permit diversion to another pool plant of the same handler provided that no location differential is involved.

Diversions are presently permitted to pool plants of other handlers or to the plant of buyer-handlers. At least one handler operates two pool bottling plants in the Southeastern New England marketing area. The present order language would appear to preclude diversions between such plants, whereas, in fact, such procedure could have no detrimental effect on the pool. This would not be true in the case of diversion between plants located in different zones. If such diversions were permitted a handler could associate milk with his marketing area plant and yet regularly receive it at his country plant. The net savings in transportation would more than compensate him for the higher price at which he would be required to account to the pool, and the producers involved would receive returns higher than justified based on the location of the plant of actual receipt, to the detriment of other producers in the market.

No change should be made in the procedure for computing the producer butterfat differential under the Connecticut order. The existing procedure is identical with that prescribed in the other New England orders except for rounding to the nearest full cent. A handler proposal would eliminate the rounding to provide for an identical differential in each of the several orders, while a producer proposal would revise the procedure of computation by elimination of the use of the cream quotation and providing for the use of current New York butter quotations.

As has been previously pointed out, the several New England markets draw from a generally common supply area. A different butterfat differential is a source of confusion to producers who have alternative markets. Ideally, the procedure of computation should be identical, and if simplification of the procedure is desirable, it should be accomplished in all of the orders at the same time. The present procedure has proven satisfactory in the three oldest New England orders over an extended period of time, and no change could be made in these orders or in the Southeastern New England order on the basis of this record.

While rounding to the nearest full cent, as provided under the Connecticut order, does result in a different differential than that used in the adjacent orders, Connecticut producers have been accustomed to payment on this basis and generally opposed change. It is concluded, therefore, that no change should be made on the basis of this record.

Provision should be made in the Connecticut order for written notice of butterfat tests to producers whose milk is purchased on the basis of composite tests, within 7 days of the end of each sampling period. The State laws require that handlers hold their composite samples for ten days after the end of the sampling period. Unless a producer has knowledge of his test before the samples are disposed of, he has no basis for further check even though he believes the test reported to be in error. Handlers now customarily advise producers of their test in the statement which accompanies their checks issued not later than the 22d day after the end of the month. Since ten-day composites are the practice in the market, the samples would have been disposed of before the producer has knowledge of his test. It is appropriate, therefore, that handlers who buy on the basis of composite tests be required to notify producers within 7 days after each test. Such a requirement is not necessary in the case of handlers buying on the basis of daily samples. The testing in such cases is done by the State and producers are notified of their tests by the State.

The area in which there are no plant location differentials under the Connecticut order should not be extended.

A cooperative association which operates a receiving plant at Great Barrington, Massachusetts, proposed that the plant location differential applicable there be eliminated so that no adjustment would apply to the Class I price for the cost of moving milk to the market.

The Connecticut order provides zoning adjustments which recognize the principle that milk similarly used and located should be similarly priced. Milk originating nearest the market should command a higher price than milk located at greater distances. This higher price ordinarily should be based on the difference in cost for moving such milk to the marketing area. The rates presently provided as adjustments for location in the Class I and uniform price are 33 cents per hundredweight for milk received at a plant located outside Connecticut or an adjacent town in Massachusetts and Rhode Island and 50 to 60 miles from Hartford. The Great Barrington plant is located in the 50–60 mile zone from Hartford, and the handler's obligations to the pool and the prices returned to his producers reflects the location differential applicable for this zone.

Although the Great Barrington plant is unique in that it performs in a nearby location a market supply function which is ordinarily performed by more distant plants, there is no valid basis for extension of the no-location-differential zone to include such plant. It performs as a supply plant for the Connecticut market, receiving and assembling milk, and at additional transportation cost moving it to handlers as required. The additional cost of transporting milk received at this plant to its final destination at the distributing plants must be recognized in the Class I and uniform price.

The provisions of the Connecticut order relating to "start" and "stop" notices should be revised to require prompt notices only for those producers whose milk is not directed to or from a handler's plant by a cooperative association.

The Connecticut order presently requires a handler to file with the market administrator a "start" notice on every producer from whom the handler receives milk within 20 days of the first delivery to the plant. A "stop" notice must be filed within 15 days after the fifth consecutive day of no delivery. The Southeastern New England order presently requires notification within five days after a producer first starts delivery and, in the case of cessation of deliveries for five consecutive days, prompt notification to the market administrator is required.

The primary purpose of "start" and "stop" notices is to assist the market administrator and cooperative associations in their marketing service programs. However, in many situations in the Connecticut market, the cooperative association moves its member's milk from plant to plant as needed on a day-to-day basis. In such cases the cooperative is fully aware of where its members' milk is being delivered and notice by the receiving handler serves no useful purpose.

Where the producer negotiates directly with the handler for a market or leaves a handler on his own initiative, his cooperative association may not have knowledge of where his milk is currently delivered. This information can be obtained from the market administrator if the handler is required to give notice thereof. Where the producer is not a member of a cooperative association, his location of current delivery is essential if the market administrator is to perform the marketing service for which such producer is paying. Prompt notice is therefore essential and accordingly the 20-day requirement presently provided in the Connecticut order should be reduced to 5 days to conform with similar requirements in the Southeastern New England order.

Certain of the information presently supplied to the market administrator in the "start" and "stop" notices is needed promptly following the close of each month to facilitate preaudit work in the market administrator's office. It is provided therefore that for those producers whose milk is directed to or from the handler's plant by a cooperative association, the handler shall, in lieu of the present start or stop notice, supply such of the information as the market administrator shall require on or before the 8th day after the end of the month.

The payment provisions of the Southeastern New England order should be revised to delete the present requirement that all deductions must be authorized in writing. However, it should be made clear that the burden for proving that any deduction is authorized shall rest with the handler.

Handlers contend that the present requirement is unreasonable and impractical particularly as it relates to supplies which producers customarily purchase through the handler by way of the trucker. It is concluded that written authorization need not be required to maintain the integrity of regulation. However, the handler must be held responsible to prove to the satisfaction of the market administrator that any deduction made was, in fact, authorized and was properly chargeable to the producer.

The date for adjusting errors in payments under both the Southeastern New England and Connecticut orders should be revised to provide that such adjustments shall be paid on the date for making payments for the month in which notification is given. The orders presently provide that such adjustments are due on the date for making payments for the month following that in which notification is given. It is intended that obligations incurred under the orders shall be paid promptly. There is no reason why adjustment billings issued by the market administrator following verification of a handler's reports, books, records or accounts should not be paid as promptly as the original billings. Under the present Connecticut order language, for example, adjustment payments due producers would not be due for as long as 83 days in the case of billing made on the 1st day of the month. The proposed revision would reduce this time by 30 days.

The Connecticut order should not be amended to provide specifically, in the case of bulk tank milk, that the handler shall be held accountable for the volume of milk which his agent picked up at the farm. Under normal circumstances it is expected that the market administrator would consider that the volume of milk which the handler or his agent picked up at the farm, as indicated on the slips left with the producers was, in fact, delivered to his plant and the burden of proof to the contrary necessarily rests with the handler. Since the producer has full opportunity to read the stick measurement prior to pickup or concurrently with the hauler at the time of pickup, stick readings are the final and only valid measurement of each producer's milk. It is likely that the handler would necessarily have to pay the producer the blended market price or have to contend with an unhappy producer. Thus, the existing order language does not present any substantial administrative problem.

Since a very high proportion of the milk received by Connecticut handlers is milk of cooperative association members which is picked up at the farm by haulers contracted for or employed by the cooperative, the situation is somewhat different than in the other New England markets. While the cooperative takes the position that their driver is, in fact, the agent of the handler it is not clear that this is true. It would be desirable in situations where the cooperative is actually the responsible handler of the milk that it be held accountable to the pool for such milk. Such position meets neither the approval of the cooperative nor of the proprietary handlers. Since no serious problem appears to have arisen to date, and any dissatisfaction in regard to weights and tests have thus far been satisfactorily adjusted between the cooperative and the handler, it is concluded that no change should be made on the basis of this record. If a change is desired the problem should be given more complete consideration at a future hearing.

Other changes in the orders as hereinafter proposed involve elimination of obsolete language or are conforming changes to implement the intent of the proposed order revision hereinbefore discussed.

Except for the purpose of implementing the modifications hereinbefore set forth relative to the applicable zone price differentials under the Connecticut order, the changes which have been made in the language of the respective orders from that set forth in the recommended decision are only those which will add clarity and specificity to the orders and do not change the intended meaning.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested persons in the markets. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders as hereby proposed to be amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

The general objection and motion on behalf of several exceptors to strike from the record all hearsay testimony offered by proponents of proposals one and eleven as set forth in the notice of hearing is hereby overruled and denied on the grounds that such objection, under the applicable rules of practice and the Administrative Procedure Act, does not constitute a valid and persuasive reason for rejecting such testimony; the additional exception to the findings with respect to such proposals on the basis of res adjudicata is likewise overruled for the reason that such doctrine does not apply to decisions of administrative officers and boards, particularly in rulemaking proceedings.

Marketing agreements and orders. Annexed hereto and made a part hereof are ten documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Greater Boston, Massachusetts, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Greater Boston, Massachusetts, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Southeastern New England Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Southeastern New England Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Springfield Massachusetts, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Springfield, Massachusetts, Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Worcester, Massachusetts, Marketing Area", "Order Amending the Order Regulating the Handling of Milk in the Worcester, Massachusetts Marketing Area", "Marketing Agreement Regulating the Handling of Milk in the Connecticut Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Connecticut Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreements, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreements are identical with those contained in the respective orders as hereby proposed to be amended by the attached orders which will be published with this decision.

Referendum orders; determination of representative period; and designation of referendum agents. It is hereby directed that referenda be conducted to determine whether the issuance of the attached orders amending the orders regulating the handling of milk in the Greater Boston, Massachusetts; Southeastern New England; Springfield, Massachusetts; Worcester, Massachusetts; and Connecticut marketing areas, respectively, are approved or favored by the producers, as defined under the terms of the respective orders, as hereby proposed to be amended, and who during the representative period, were engaged in the production of milk for sale within the aforesaid respective marketing areas.

The month of April 1960 is hereby determined to be the representative period for the conduct of such referenda.

R. D. Aplin is hereby designated agent of the Secretary to conduct such referenda in the Greater Boston, Massachusetts; Springfield, Massachusetts; and Worcester, Massachusetts; marketing areas, Robert W. Cherry is hereby designated agent of the Secretary to conduct such referendum in the Southeastern New England marketing area, and D. O. Hammerberg is hereby designated agent of the Secretary to conduct such referendum in the Connecticut marketing area, such referenda to be conducted in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders (15 F.R. 5177), such referenda to be completed on or before the 30th day from the date this decision is issued.

Issued at Washington, D.C., this 10th day of August 1960.

TRUE D. MORSE,
Acting Secretary.

Order [1] Amending the Order Regulating the Handling of Milk in the Greater Boston, Massachusetts, Marketing Area

AUTHORITY: §§ 904.0 to 904.84 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 904.0 Findings and determinations.

The findings and determination hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Greater Boston, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, three cents per hundredweight or such amount not to exceed three cents per hundredweight as the Secretary may prescribe, with respect to all of the handler's receipts, during the month, of milk from producers, of outside milk, of exempt milk processed at a regulated plant and to the quantity of his route disposition subject to payments under § 904.65(b).

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Greater Boston, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 904.1 General definitions.

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(b) "Greater Boston, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns:

Andover.
Arlington.
Ashland.
Avon.
Ayer.
Bedford.
Belmont.
Beverly.
Billerica.
Boston.
Braintree.
Brookline.
Burlington.
Cambridge.
Canton.
Chelmsford.
Chelsea.
Cohasset.
Dedham.
Dover.
Dracut.
Everett.
Framingham.
Groveland.
Haverhill.
Hingham.
Holbrook.
Holliston.
Hopkinton.
Hull.
Lawrence.
Lexington.
Littleton.
Lowell.
Lynn.
Lynnfield.
Malden.
Marblehead.
Marlborough.
Medfield.
Medford.
Melrose.
Merrimac.
Methuen.
Milton.
Nahant.
Natick.
Needham.
Newton.
North Andover.
North Reading.
Norwood.
Peabody.
Quincy.
Randolph.
Reading.
Revere.
Salem.
Saugus.
Sharon.
Sherborn.
Somerville.
Southborough.
Stoneham.
Stoughton.
Swampscott.
Tewksbury.
Tyngsborough.
Wakefield.
Walpole.
Waltham.
Watertown.
Wayland.
Wellesley.
Westford.
West Newbury.
Weston.
Westwood.
Weymouth.
Wilmington.
Winchester.
Winthrop.
Woburn.

(c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I milk pursuant to § 904.15(a), other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition: *Provided,* That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant, shall be considered as a continuation of the routes of the plant where such fluid milk products are packaged.

(d) "Emergency period" means the period of time for which the market administrator declares that an emergency exists in that the milk supply available to the marketing area from producers is insufficient to meet the demand for Class I milk in the marketing area.

§ 904.2 Definitions of persons.

(a) "Person" means any individual, partnership, corporation, association, or any other business unit;

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and perform the duties of the Secretary of Agriculture;

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk;

(d) "Dairy farmer for other markets" means any person described in subparagraph (1), (2) or (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate a regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order.

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order.

(3) Any dairy farmer whose milk is received by a handler at a regulated plant during any of the months of December through June from a farm from which the handler received nonpool milk during any of the preceding months of July through November, except that the term shall not apply if all such nonpool milk was received at that plant and was considered as a receipt from a producer under another New England Federal order or represented receipts from own production by a producer-handler under any New England Federal order. However, in the application of this subparagraph to operations prior to July 1, 1961, the period from the effective date of this amended order through November 1960 shall be substituted for the period of July through November referred to in this subparagraph.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include any person who is a producer-handler under this or any other Federal order, a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered, nor a dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Dealer" means any person who during the month, operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.

(h) "Handler" means (1) any person who, during the month, operates a pool plant or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area, or (2) any person in his capacity as a subdealer, vendor, or peddler selling fluid milk products on routes from such plants.

(i) "Pool handler" means any handler who operates a pool plant.

(j) "Producer-handler" means any person meeting the conditions of subparagraph (1) or (2) of this paragraph, who is both a dairy farmer and a handler who processes milk from his own farm production, distributing all or a portion of such milk as Class I milk in the marketing area on routes: *Provided,* That the maintenance, care and management of the dairy herd and other resources and facilities necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and risk of such person, and a greater proportion of fluid milk products are distributed in this marketing area on routes than in any other Federal order marketing area: (1) His own farm production or Class I sales, whichever is less, does not exceed 2,150 pounds on a daily average during the month, and whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders, or (2) his only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders in an amount not to exceed two percent of his own farm production: *Provided,* That for the purpose of determining whether such person's sources and quantities of receipts meet the requirements of this subparagraph, any fluid milk products received (other than from his own plant) at retail or wholesale outlets (including vending machines) located in any New England Federal marketing area and operated by such person, by an affiliate, or by any person who controls or is controlled by such person, shall be considered as a part of such person's supply of fluid milk products.

§ 904.3 Definitions of plants.

(a) "Plant" means the land and buildings, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products: *Provided,* That this definition shall not include any separate building, premises, equipment and facilities used primarily to hold or store packaged fluid milk products in finished form in transit on routes.

(b) "City plant" means any plant which is located not more than 40 miles from the State House in Boston.

(c) "Country plant" means any plant which is located more than 40 miles from the State House in Boston.

(d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.

(e) "Pool plant" means any receiving plant which meets the applicable conditions and requirements for pool plant status contained in §§ 904.20 and 904.21, except a pool plant under another Federal order, the plant of a producer-handler under any Federal order, or a plant from which emergency milk is received.

(f) "Distributing plant" means any processing and packaging plant with total Class I disposition of at least 50 percent of its total receipts of fluid milk products and route disposition in the marketing area amounting to not less than 10 percent of such receipts or of receipts from dairy farmers.

(g) "Regulated plant" means: (1) Any pool plant, or (2) any distributing plant (other than the plant of a producer-handler under any Federal order) in any month in which the quantity of its route disposition in the marketing area is in excess of its route disposition in any other New England Federal marketing area.

(h) "Supply plant" means any receiving plant (other than a pool plant under the provisions of this or any other Federal order on the basis of its route disposition) from which fluid milk products are shipped to a distributing plant.

(i) "Other Federal order plant" means a pool plant under another Federal order, or any plant which is not a regulated plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal milk order.

§ 904.4 Definitions of milk and milk products.

(a) "Milk" means the commodity received from a dairy farmer as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half".

(b) "Fluid milk products" means milk, flavored milk, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.

(c) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.

(d) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of one percent of butterfat.

(e) "Half and half" means any fluid milk product, except concentrated milk, the butterfat content of which has been adjusted to at least 10 percent but less than 16 percent.

(f) "Concentrated milk" means the concentrated, unsterilized milk product, resembling plain condensed milk, which is disposed of to retail or wholesale outlets in fluid form for human consumption.

(g) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes sour cream; frozen cream; milk and cream mixtures containing 16 percent or more of butterfat; and 50 percent of the quantity, by weight, of "half and half".

(h) "Producer milk" means milk which a handler has received as milk from producers. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

(i) "Outside milk" means:

(1) All receipts of fluid milk products from sources other than producers, regulated plants, and other Federal order plants, but not including receipts of exempt milk or emergency milk.

(2) All other receipts of milk products, whether or not originally derived from producer milk, which are not fluid milk products but are combined with or converted into fluid milk products, and including cream or other such milk products received or produced at the handler's plant during a prior month.

(j) "Exempt milk" means:

(1) Milk received at a regulated plant in bulk from an unregulated plant to be processed and packaged, and for which an equivalent quantity of packaged fluid milk products is returned to the operator of the unregulated plant during the same month, if such receipt of bulk milk and return of packaged fluid milk products occur during an interval in which the facilities of the unregulated plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control; or

(2) Packaged fluid milk products received at a regulated plant from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and packaging during the same month, if such movement of bulk milk and receipt of packaged fluid milk products occur during an interval in which the facilities of the regulated plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control; or

(3) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.

(k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted:

(1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused milk to be moved from the farm as producer milk, or caused milk to be moved as producer milk from the farm by tank truck; or

(2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

(l) "Emergency milk" means fluid milk products received at a regulated plant during an emergency period from a plant which was an unregulated plant in the month immediately preceding the month in which the emergency period became effective.

Market Administrator

§ 904.10 Designation of market administrator.

The agency for the administration of this part shall be a market administrator selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 904.11 Powers of market administrator.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 904.12 Duties of market administrator.

The market administrator, in addition to the duties described in other sections of this part, shall:

(a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to exercise his powers and perform his duties;

(c) Pay out of the funds provided by § 904.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(d) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor, or to such other person as the Secretary may designate;

(e) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this part;

(f) Promptly verify the information contained in the reports submitted by handlers; and

(g) Give each of the producers delivering to a plant, as reported by the handler, prompt written notice of his loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION

§ 904.15 Classes of utilization.

All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 904.16 and 904.17, the classes of utilization shall be as follows:

(a) Class I milk shall be:

(1) All milk and milk products sold, distributed, or disposed of as or in milk;

(2) All milk and milk products sold, distributed, or disposed of for human consumption as or in flavored milk, skim milk, flavored or cultured skim milk, or buttermilk;

(3) Ninety-eight percent, by weight, of the milk and milk products used to produce concentrated milk; and

(4) All milk and milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all milk and milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as specified in subparagraphs (1), (2), and (3) of paragraph (a) of this section; and

(2) As plant shrinkage, not in excess of 2 percent of the volume of fluid milk products and cream handled.

§ 904.16 Classification of fluid milk products moved to other plants

Any fluid milk products moved from a regulated plant to any other plant shall be classified as follows:

(a) As Class I milk if moved as packaged fluid milk products to any other plant;

(b) As Class I milk if moved to the plant of a producer-handler under any Federal order;

(c) In the class to which assigned under §§ 904.25 and 904.26 if moved as bulk fluid milk products to any other handler's regulated plant;

(d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a regulated plant under the Connecticut, Southeastern New England, or New York-New Jersey order;

(e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a regulated plant under the Boston, Connecticut, Southeastern New England, or New York-New Jersey order or the plant of a producer-handler under any Federal order; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order and thence to another plant located outside the New England States and New York State.

§ 904.17 Responsibility of handlers in establishing the classification of milk.

The burden rests upon the handler who operates a plant to account for any milk and milk products received or available at the plant, and to prove that they should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 904.20 Basic pooling requirements.

Each receiving plant shall be considered to have met the basic pooling requirements in any month in which it meets the applicable conditions of this section. However, in the application of paragraph (d) of this section to operations prior to December 1, 1960, each of the months previous to December but subsequent to the month in which the amended order becomes effective shall be substituted for the period of August through November referred to in that subparagraph.

(a) It is a distributing plant with a greater quantity of its route disposition in the marketing area than in any other New England Federal marketing area.

(b) It is a plant located in the marketing area which is operated by an association of producers and the route disposition from the plant does not exceed two percent of the total receipts of fluid milk products at the plant.

(c) It is a supply plant from which at least 15 percent of its total receipts of milk from dairy farmers is shipped as fluid milk products to regulated distributing plants.

(d) For any month of August through November, it is one of a group of supply plants:

(1) From which the handler ships at least 15 percent of the combined total receipts of milk from dairy farmers as fluid milk products to regulated distributing plants; and

(2) For which the market administrator has received, on or before the 16th day of the month, the handler's written request for continuation of supply-type pool plant status which such plant held under his operation in the preceding month.

(e) It is a supply plant which would otherwise fail to qualify as a pool plant under any Federal order and from which at least 15 percent of its total receipts of milk from dairy farmers is shipped as fluid milk products to distributing plants, other than plants of producer-handlers.

§ 904.21 Supplementary pooling provisions for supply plants.

(a) Any supply plant shall have automatic pool plant status in any month in the period of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if it was a supply-type pool plant in each of the preceding months of July through November, or if it would have been a supply-type pool plant in each of such months had it not been a pool plant under another New England Federal order and the market administrator has received the handler's written request for such automatic status for the plant on or before the 16th day of the month unless:

(1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this order;

(2) The plant is designated as a nonpool plant pursuant to paragraph (e) of this section; or

(3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.

(b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if it was a supply-type pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this order than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which the plant is designated as a nonpool plant pursuant to paragraph (e) of this section.

(c) Any supply plant, except a plant which has automatic pool plant status for the month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it either has automatic pool plant status under another New England Federal order or makes a greater quantity of qualifying shipments of fluid milk products to regulated plants under another New England Federal order than to regulated plants under this order and meets all of the other applicable conditions and requirements for pool plant status under such other order.

(d) Any supply plant shall be a nonpool plant in each of the months of December through June if it was a nonpool receiving plant under each of the New England Federal orders during any of the preceding months of July through November in which it was operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler's plant under any New England Federal order.

(e) A supply plant which would otherwise have automatic pool plant status for the month shall be a nonpool plant in any of the months of December through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month.

(f) A supply plant shall be a nonpool plant in any month for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month if:

(1) All of the fluid milk products received at regulated plants from such plant during the month are assigned to Class II milk pursuant to § 904.26; and

(2) The plant meets all of the conditions and requirements for pool plant status under another New England Federal order in such month.

(g) In the application of the supplementary pooling provisions for supply plants contained in this section to operations prior to July 1, 1961, the period from the effective date of this amended order through November 1960 shall be substituted for the period of July through November in each instance in which the latter period is referred to in this section.

ASSIGNMENT OF RECEIPTS

§ 904.25 Assignment of receipts at regulated plants to Class I milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk;

(b) Receipts of emergency milk eligible for assignment to Class I milk pursuant to § 904.27;

(c) Receipts from other Federal order plants of packaged fluid milk products classified and priced as Class I milk under the other Federal order;

(d) Receipts from other handlers' regulated plants of packaged fluid milk products;

(e) Receipts from other handlers' regulated plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers;

(f) Receipts from producers;

(g) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk under paragraph (e) of this section;

(h) Receipts from other Federal order plants of bulk fluid milk products classified and priced as Class I milk under the other Federal order, or subject to such classification and pricing if assigned to Class I milk under this order. If there are receipts from more than one other Federal order market, the remaining Class I milk shall be prorated between the originating markets, except that if the handler has route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of route disposition in such market by the handler;

(i) Receipts from other Federal order plants of fluid milk products not assigned to Class I milk under paragraphs (c) and (h) of this section;

(j) Receipts of outside milk in the form of fluid milk products, in the order of the nearness of the unregulated plants to Boston according to their zone locations; and

(k) All other receipts, or available quantities of fluid milk products, from whatever source derived.

§ 904.26 Assignment of receipts at regulated plants to Class II milk.

Receipts at regulated plants of milk and milk products which are not assigned to Class I milk pursuant to § 904.25 shall be assigned to Class II milk.

§ 904.27 Emergency milk eligible for assignment to Class I milk.

Emergency milk received by a handler whose total use of Class II milk is in excess of 10 percent of the total volume of fluid milk products handled by him shall be assigned to Class II milk to the extent of such excess. For the purpose of this section, the handler's total Class II milk and total volume handled shall be the total of the respective quantities beginning on the first day on which emergency milk is received by the handler during the month and extending through the last such day in the month. If the quantity of emergency milk as to which specific Class II use is established is greater than the quantity otherwise assigned to Class II milk pursuant to this section, such greater quantity shall be assigned to Class II milk. Receipts of emergency milk not assigned to Class II milk shall be assigned to Class I milk.

REPORTS OF HANDLERS

§ 904.30 Pool handlers' reports of receipts and utilization.

On or before the 8th day after the end of each month each pool handler shall, with respect to the fluid milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products and cream at each plant from any other handler, assigned to classes pursuant to §§ 904.25 to 904.27;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The respective quantities which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 904.15 to 904.17.

§ 904.31 Reports of nonpool handlers.

Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products and cream. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 904.32 Reports regarding individual producers.

(a) Within 20 days after a producer moves from one farm to another, starts or resumes deliveries to any of a handler's pool plants, or starts delivering his milk to the handler's plant by tank truck, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

(c) Each handler who is not an association of producers shall, upon request from any such association, promptly furnish it with information with respect to each of its producer members who starts, resumes, or stops deliveries to any of the handler's pool plants. Such information shall include the date on which the change took place, the producer member's post office address and farm location, and, if known, the plant to which he previously delivered, or the reason for his failure to continue deliveries. In lieu of his providing the information directly to the association, the handler may authorize the market administrator to furnish the association with such information, derived from the handler's reports and records.

§ 904.33 Reports of payments to producers.

Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month, which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 904.34 Maintenance of records.

Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 904.35 Verification of reports.

For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this part;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

§ 904.36 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 904.37 Notices to producers.

Each pool handler shall furnish each producer from whom he receives milk with information regarding the daily weight and composite butterfat test of the producer's milk, as follows:

(a) Within 3 days after each day on which he receives milk from the producer, the handler shall give the producer written notice of the daily quantity so received.

(b) Within 7 days after the end of any sampling period for which the composite butterfat test of the producer's milk was determined, the handler shall give the producer written notice of such composite test.

§ 904.38 Outside cream purchases.

Each handler shall report, as requested by the market administrator, his purchases, if any, of bottling quality cream from nonpool handlers, showing the quantity and the source of each such purchase and the cost thereof at Boston.

MINIMUM CLASS PRICES

§ 904.40 Class I price.

The Class I price per hundredweight at plants located in zone 21 shall be the New England basic Class I price per hundredweight determined for each month pursuant to § 904.48.

§ 904.41 Class II price.

The Class II price per hundredweight at plants located in zone 21 shall be determined for each month pursuant to this section.

(a) Subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream f.o.b. Boston, as reported by the United States Department of Agriculture for the month, divide the remainder by 33, multiply by 0.98, and multiply the result by 3.7.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk for human consumption, in carlots, f.o.b. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month. Subject to paragraph (d) of this section, the result is the Class II price per hundredweight for milk received from producers at plants located in zone 21.

Month:	*Amount (cents)*
January and February	67
March and April	79
May and June	85
July	79
August and September	73
October, November, and December	67

(d) For each month in which no cream price, as described in paragraph (a) of this section, is reported, and for each month in which the amount determined pursuant to this paragraph is greater than the amount computed pursuant to paragraph (c) of this section, the amount determined pursuant to this paragraph shall be the Class II price per hundredweight of milk received from producers at plants located in zone 21.

(1) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported on a preliminary basis by the United States Department of Agriculture for the month, by subtracting for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or adding for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable month:

Month:	*Amount (cents)*	Month:	*Amount (cents)*
January	+13	July	+08
February	+12	August	+17
March	−05	September	+14
April	−09	October	+16
May	−12	November	+17
June	−11	December	+17

§ 904.42 Zone price differentials.

The prices determined pursuant to §§ 904.40, 904.41, and 904.51 shall be subject to zone price differentials based upon the zone location of the plant at which the milk is received from producers.

(a) Each city plant shall be in the "City Plant" zone.

(b) The zone location of each country plant shall be based upon its highway mileage distance to Boston as determined by use of the appropriate State maps contained in Mileage Guide No. 6, and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The distance shall be the lowest highway mileage between Boston and the named point on the map which is nearest to the plant, over roads designated thereon as paved, first-class, all-weather roads. In the event that the named point is not located on a through first-class road, such other roads shall be used to reach a through first-class road as will result in the lowest highway mileage to Boston, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through first-class road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(c) The zone price differentials for each plant shall be those applicable to its zone location as shown in the following table:

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

A	B	C	D
Distance to Boston (miles)	Zone	Class I and blended price differentials (cents per hundredweight)	Class II Price differentials (cents per hundredweight)
Within 40	City plant	+54.0	+5.8
41 to 60	6	+37.0	+3.8
61 to 70	7	+16.8	+3.7
71 to 80	8	+15.6	+3.5
81 to 90	9	+14.4	+3.2
91 to 100	10	+13.2	+3.0
101 to 110	11	+12.0	+2.9
111 to 120	12	+10.8	+2.6
121 to 130	13	+9.6	+2.4
131 to 140	14	+8.4	+2.1
141 to 150	15	+7.2	+1.6
151 to 160	16	+6.0	+1.3
161 to 170	17	+4.8	+1.2
171 to 180	18	+3.6	+0.6
181 to 190	19	+2.4	+0.4
191 to 200	20	+1.2	+0.1
201 to 210	21	(1)	(1)
211 to 220	22	−1.0	−0.6
221 to 230	23	−2.0	−0.7
231 to 240	24	−3.0	−0.9
241 to 250	25	−4.0	−0.9
251 to 260	26	−5.0	−1.2
261 to 270	27	−6.0	−1.3
271 to 280	28	−7.0	−1.5
281 to 290	29	−8.0	−1.6
291 to 300	30	−9.0	−1.8
301 to 310	31	−10.0	−2.3
311 to 320	32	−11.0	−2.4
321 to 330	33	−12.0	−2.5
331 to 340	34	−13.0	−2.8
341 to 350	35	−14.0	−2.8
351 to 360	36	−15.0	−3.0
361 to 370	37	−16.0	−3.1
371 to 380	38	−17.0	−3.3
381 to 390	39	−18.0	−3.4
391 to 400	40	−19.0	−3.5
401 to 410	41	−20.0	−3.5
411 to 420	42	−21.0	−3.5
421 to 430	43	−22.0	−3.5
431 to 440	44	−23.0	−3.5
441 to 450	45	−24.0	−3.5
451 and over	46 and over	(2)	−3.5

[1] No differential.

[2] Class I and blended price differentials applicable to plants located more than 450 miles from Boston shall be obtained by extending the table at the rate of one cent for each additional 10 miles except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in such zone.

§ 904.43 Determination of zone locations of receipts from producers assigned to Class I milk.

For the purpose of determining the respective quantities of receipts from producers which are subject to the various zone price differentials, each pool handler's receipts from producers assigned to Class I milk pursuant to § 904.25(f) shall be considered to have originated at sources in the sequence and to the extent set forth in this section:

(a) Receipts from producers at the handler's city plant;

(b) Receipts from producers at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of:

(1) As route disposition in Maine, New Hampshire, and Vermont; and

(2) To unregulated plants from which no fluid milk products were disposed of as Class I milk, either directly or indirectly, outside the States of Maine, New Hampshire, and Vermont.

(c) Remaining receipts from producers at the handler's country pool plants, receipts of bulk fluid milk products from other Federal order plants, and receipts of outside milk in the form of fluid milk products not assigned to Class I milk pursuant to § 904.25(j), all in the order of the nearness of the originating plants to Boston according to their zone locations. The quantity determined for the zone location of any of the handler's country pool plants shall be the lesser of its receipts from producers or its shipments of fluid milk products reduced by its shipments of fluid milk products to plants located in the States of Maine, New Hampshire, Vermont, or New York for which utilization as Class II milk is established. Receipts from each dairy farmer for other markets shall be considered as receipts from the unregulated plant to which he ordinarily delivered.

§ 904.44 Butter and cheese adjustment.

During the months of April, May, June, and July, in which the Class II price is computed pursuant to § 904.41(c), the value of a pool handler's milk computed pursuant to § 904.50 shall be reduced by an amount determined as follows:

(a) Subtract from the price computed pursuant to § 904.41(c), the price computed pursuant to § 904.41(d) and divide by 3.7. The result is the butter and cheese differential.

(b) Determine the pounds of butterfat in Class II milk received from producers which was processed into salted butter, Cheddar cheese, American Cheddar cheese, Colby cheese, washed curd cheese, or part skim Cheddar cheese at a plant of the first handler of such butterfat or at a plant of a second person to which such butterfat was moved.

(c) Subtract such portion of the quantity determined in paragraph (b) of this section as was made into salted butter and disposed of by the handler or such second person in a form other than salted butter.

(d) Multiply the remaining pounds of butterfat determined pursuant to paragraph (c) of this section by the butter and cheese differential determined pursuant to paragraph (a) of this section.

§ 904.45 Use of equivalent factors in formulas.

If for any reason a price, index, or wage rate specified by this part for use in computing class prices and for other purposes is not reported or published in the manner described in this part, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

§ 904.46 Announcement of class prices and differentials.

The market administrator shall make public announcements of class prices and differentials as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price and the butter and cheese differential on or before the 5th day after the end of each month.

NEW ENGLAND BASIC PRICE FORMULA

§ 904.48 Computation of New England basic Class I price.

The New England basic Class I price per hundredweight of milk containing 3.7 percent butterfat shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding work day shall be used.

(a) Compute the economic index as follows:

(1) Divide by 1.190 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1947–49 as the base period.

(2) Using the data on per capita personal income, by States and regions, as published by the United States Department of Commerce, establish a "New England adjustment percentage" by computing the current percentage relationship of New England per capita personal income to per capita personal income in continental United States. Multiply by the New England adjustment percentage the quarterly figure showing the current annual rate of per capita disposable personal income in the United States as released by the United States Department of Commerce or the Council of Economic Advisors to the President. Divide the result by 20.50 to determine an index of per capita disposable personal income in New England.

(3) Multiply by 20 the average price per 100 pounds paid by farmers in the New England region for all mixed dairy feed of less than 29 percent protein content as reported by the United States Department of Agriculture for the month and divide the result by .8082 to determine the dairy ration index. Compute the average, weighted by the indicated factors, of the following farm wage rates reported for the New England region by the United States Department of Agriculture: Rate per month with board and room, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and the rate per day without board or room, 26. Divide the average wage rate so computed by 1.9833 to determine the wage rate index. Multiply the dairy ration index by 0.6 and the wage rate index by 0.4 and combine the two results to determine the grain-labor cost index.

(4) Divide by 7 the sum of three times the wholesale price index, the index of per capita disposable income in New England, and three times the grain-labor cost index determined pursuant to this paragraph. The result shall be known as the economic index.

(b) Compute an economic index price as follows:

(1) Multiply the economic index by $.0567, expressing the result to the nearest mill;

(2) Divide the Class I-A price for the month determined pursuant to Federal Order No. 27 and applicable to the 201-210-mile freight zone for 3.5 percent milk by the product of the utilization adjustment percentage and the seasonal adjustment factor which entered into the computation thereof, and then add $.08, expressing the result to the nearest mill;

(3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, unless the difference between the result computed in subparagraph (1) of this paragraph and the result computed in subparagraph (2) of this paragraph exceeds 11 cents. In that event, the economic index price shall be the price computed pursuant to subparagraph (1) of this paragraph minus the amount of the excess above 11 cents if the result under subparagraph (1) of this paragraph is the greater, and plus the amount of the excess above 11 cents if the result under subparagraph (2) of this paragraph is the greater.

(c) Compute a supply-demand adjustment factor as follows:

(1) Combine into separate monthly totals the receipts from producers for Greater Boston, Connecticut, Southeastern New England, Springfield, and Worcester and the Class I milk from producers for the same markets as announced by the respective market administrators in the statistical reports for such markets for the second and third months preceding the month for which the price is being computed.

(2) Divide the five-market total of Class I producer milk by the five-market total of receipts from producers for each of the two months for which computations were made pursuant to subparagraph (1) of this paragraph.

(3) Divide each of the percentages determined in subparagraph (2) of this paragraph into the following base Class I percentage for the respective month, multiply each result by 100, and compute a simple average of the resulting percentages. The result shall be known as the percentage of base supply.

Month:	*Base Class I percentage*
January	71.6
February	69.8
March	65.1
April	61.1
May	55.5
June	5[illegible].7
July	69.3
August	74.7
September	75.8
October	76.5
November	77.9
December	73.0

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Percentage of base supply: [1]	*Supply-demand adjustment factor*
90.5–91.5	1.06
92.0–93.0	1.05
93.5–94.5	1.04
95.0–96.0	1.03
96.5–97.5	1.02
98.0–99.0	1.01
99.5–100.5	1.00
101.0–102.0	.99
102.5–103.5	.98
104.0–105.0	.97
105.5–106.5	.96
107.0–108.0	.95
108.5–109.5	.94

[1] If the percentage of base supply calculated according to subparagraph (4) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.

(d) The seasonal adjustment factor shall be the factor listed below for the month for which the price is being computed.

Month:	*Seasonal adjustment factor*
January and February	1.04
March	1.00
April	.92
May and June	.88
July	.96
August	1.00
September	1.04
October, November, and December	1.08

(e) Multiply the economic index price determined pursuant to paragraph (b) of this section by the product of the supply-demand adjustment factor determined pursuant to paragraph (c) of this section times the seasonal adjustment factor determined pursuant to paragraph (d) of this section. The New England basic Class I price shall be the price set forth in column 3 of the following table opposite the range within which the result of this computation falls.

Range		New England basic Class I price
At least—	But less than—	
[1] $14.86	$5.08	$4.97
5.08	5.30	5.19
5.30	5.52	5.41
5.52	5.74	5.63
5.74	5.96	5.85
5.96	6.18	6.07
6.18	6.40	6.29
6.40	6.62	6.51
6.62	6.84	6.73
6.84	[1] 7.06	6.95

[1] If the result of the computation specified in this paragraph is less than $4.86 or is $7.06 or more, the New England basic Class I price shall be determined by extending the table at the indicated rate of extension.

(f) Notwithstanding the provisions of the preceding paragraphs of this section, the New England basic Class I price for November or December of each year shall not be lower than such price for the immediately preceding month.

§ 904.50 Computation of value of milk received from producers.

For each month, the market administrator shall compute the value of milk received from producers by each pool handler in the following manner:

(a) Multiply the quantities of milk received from producers assigned to Class I milk pursuant to § 904.25, at zone locations as determined pursuant to § 904.43, by the prices pursuant to §§ 904.40 and 904.42;

(b) Multiply the quantities of milk received from producers at plants in each zone, less the quantities priced in each zone pursuant to paragraph (a) of this section, by the prices pursuant to §§ 904.41 and 904.42;

(c) Add together the resulting value of each class; and

(d) Adjust the value determined in paragraph (c) of this section as provided in § 904.44.

§ 904.51 Computation of the basic blended price.

The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective values of milk computed pursuant to § 904.50 and the payments required pursuant to § 904.65 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 904.61(b) and 904.65 for the preceding month;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 904.61, 904.62, 904.65, and 904.67;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to § 904.64;

(d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 904.61 and 904.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at plants located in zone 21, shall be known as the basic blended price.

§ 904.52 Announcement of blended prices.

On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the Act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the differentials pursuant to § 904.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this part.

PAYMENTS FOR MILK

§ 904.60 Advance payments.

On or before the 5th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall advance payment be at a rate less than the Class II price for such month.

§ 904.61 Final payments.

Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 904.50, as follows:

(a) On or before the 20th day after the end of each month, to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 904.63 and 904.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to the market administrator on or before the 18th day after the end of each month, or receiving from the market administrator on or before the 20th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 904.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 904.50, as shown in a statement rendered by the market administrator on or before the 15th day after the end of such month.

§ 904.62 Adjustments of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses an error in payments made pursuant to §§ 904.61(b) and 904.65, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th day of the prior month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

(b) Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 904.61(a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

§ 904.63 Butterfat differential.

Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows: Subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream, f.o.b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, and divide the remainder by 330. If the cream price described above is not reported as indicated the butterfat differential shall be determined by multiplying by 1.25 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture and dividing the result by 10.

§ 904.64 Location differentials.

The payments to be made to producers by handlers pursuant to § 904.61(a) shall be subject to the differential set forth in Column C of the table in § 904.42 and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located more than 40 miles from both the State House in Boston and the City Hall in Lawrence, but not more than 80 miles from the State House in Boston, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 904.40 and 904.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

(b) With respect to milk delivered by a producer whose farm is located not more than 40 miles from the State House in Boston or not more than 40 miles from the City Hall in Lawrence, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 904.40 and 904.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

§ 904.65 Payments on outside milk and receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator, as follows:

(a) Each handler operating a regulated plant at which there are assigned to Class I milk receipts of outside milk, or receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order, shall make payment as follows:

(1) On such receipts assigned pursuant to § 904.25 (i) or (j), at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 applicable at the zone location of the unregulated plant. Receipts from each dairy farmer for other markets shall be considered as receipts from the unregulated plant to which he ordinarily delivered; and

(2) On quantities assigned pursuant to § 904.25(k) at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 applicable at the handler's regulated plant nearest to Boston.

(b) Each handler, except a producer-handler under any Federal order, who operates an unregulated plant with route disposition in the marketing area shall make payment at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 applicable at the zone location of the handler's plant on the quantity of such disposition which is in excess of the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order, except that the same receipts of priced milk shall not be used to offset route disposition in this marketing area and in any other Federal marketing area.

§ 904.66 Deductions from payments to producers.

(a) In making payments to producers as required by §§ 904.60 and 904.61(a), the burden shall rest upon the handler making deductions from such payments to prove that each deduction is properly authorized, and properly chargeable to the producer.

(b) Each association of producers may file with a handler who is not an association of producers, a claim for authorized deductions from the payments otherwise due to its producer members for milk delivered to such handler. Such claim shall contain a list of the producers for which such deductions apply, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer listed authorizing the claimed deduction. Such deductions shall be made by the handler in accordance with the association's claim, and shall be paid by the handler to the association on or before the 20th day after the end of each month with an accompanying statement showing the pounds of milk delivered by each producer from whom the deduction was made.

§ 904.67 Adjustment of overdue accounts.

Any balance due, pursuant to §§ 904.61, 904.62, and 904.65, to or from the market administrator on the 20th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent effective the 21st day of such month: *Provided*, That any remittance received by the market administrator after the 20th day of any month in an envelope which is postmarked not later than the 18th day of such month, shall be considered under this section to have been received by the 20th of the month.

§ 904.68 Statements to producers.

In making the payments to producers prescribed by § 904.61(a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 904.61 (a);

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 904.66 and 904.70 together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

MARKETING SERVICES

§ 904.70 Marketing service deductions.

In making payments to producers pursuant to § 904.61(a), each handler with respect to all milk received from each producer except himself and except any producer who is a member of an association of producers which the Secretary determines is performing the services set forth in this section, shall deduct 2 cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, and shall, on or before the 18th day after the end of each month, pay such deductions to the market administrator. Such monies shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

ADMINISTRATION EXPENSE

§ 904.72 Payments of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 3 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe, and shall apply to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant and to the quantity of his route disposition in the marketing area which is subject to payments under § 904.65(b).

OBLIGATIONS

§ 904.73 Termination of obligations.

The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month, during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 904.80 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 904.81.

§ 904.81 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 904.82 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 904.83 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 904.84 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Order[1] Amending the Order Regulating the Handling of Milk in the Southeastern New England Marketing Area

§ 990.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southeastern New England marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, five cents per hundredweight or such amount not to exceed five cents per hundredweight as the Secretary may prescribe, as follows: (i) By each pool handler with respect to (a) receipts of producer milk including such handler's own production, (b) receipts of exempt milk, and (c) receipts of other source milk classified as Class I except receipts from fully regulated plants under another Federal order; (ii) by each handler operating a regulated plant other than a pool plant with respect to receipts of other source milk in his plant which are classified as Class I except receipts from fully regulated plants under another Federal order; and (iii) by each nonpool handler with respect to any disposition of Class I milk in the marketing area on routes in excess of his receipts of pool milk or milk from fully regulated plants under another Federal order and classified and priced as Class I.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Southeastern New England marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete paragraph (b) of § 990.1 and substitute therefor the following:

(b) "Southeastern New England marketing area", hereinafter referred to as the "marketing area", means all of the territory included within the boundary lines of the State of Rhode Island (excluding Block Island), the Massachusetts counties of Barnstable, Bristol, Dukes County and Plymouth (excluding the towns of Hingham and Hull); the towns of Bellingham, Foxborough, Franklin, Medway, Millis, Norfolk, Plainville, and Wrentham in Norfolk County, and the towns of Blackstone, Hopedale, Mendon, Milford, and Millville in Worcester County, together with all piers, docks and wharves connected therewith and craft moored thereat and including all territory within such boundaries occupied by Government (municipal, state or Federal) installations, institutions, or other establishments.

2. Delete paragraph (c) of § 990.1 and substitute therefor the following:

(c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I milk pursuant to § 990.21(a), other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition: *Provided,* That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant, shall be considered as a continuation of the route(s) of the plant where such fluid milk products are packaged.

3. Delete paragraph (c) of § 990.2 and substitute therefor the following:

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk.

4. Delete paragraph (d) of § 990.2 and substitute therefor the following:

(d) "Dairy farmer for other markets" means any person described in subparagraphs (1), (2), and (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate a regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order;

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order;

(3) Any dairy farmer whose milk is received by a handler at a regulated plant during any of the months of December through June from a farm from which the handler received nonpool milk during any of the preceding months of July through November, except that the term shall not apply if all such nonpool milk was received at that plant and was considered as a receipt from a producer under another New England Federal order or represented receipts from own production by a producer-handler under any New England Federal order.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by a handler or dealer shall be considered as having been performed by such handler or dealer.

5. Delete paragraph (e) of § 990.2 and substitute therefor the following:

(e) "Producer" means any dairy farmer (except a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered, any person holding producer-handler status under any Federal order or a dairy farmer who is a producer under another Federal order with respect to milk diverted from a plant subject to such other order) whose milk is delivered from his farm to a pool plant or is diverted in accordance with subparagraphs (1) through (5) of this paragraph if the handler, in filing his monthly report pursuant to § 990.30 reports the milk as receipts from a producer at such pool plant: *Provided,* That any dairy farmer whose milk is diverted on more than the number of days specified shall not be considered to qualify under this paragraph with respect to any of his deliveries of milk during such month:

(1) To the regulated plant of another handler;

(2) To a regulated plant of the same handler in the same plant zone;

(3) To an unregulated plant during any month of July through September on not more than 8 days (4 days in the case of every-other-day delivery) during such month;

(4) To an unregulated plant during any month of October through March on not more than 12 days (6 days in the case of every-other-day delivery) during such month; or

(5) To an unregulated plant during any month of April through June.

6. Delete paragraph (g) of § 990.2 and substitute therefor the following:

(g) "Handler" means (1) any person who during the month operates a pool plant or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area, or (2) any person in his capacity as a subdealer, vendor, or peddler selling fluid milk products on routes from such plants.

7. Delete paragraph (i) of § 990.2 and substitute therefor the following:

(i) "Producer-handler" means any person meeting the conditions of subparagraph (1) or (2) of this paragraph, who is both a dairy farmer and a handler who processes milk from his own farm production, distributing all or a portion of such milk as Class I milk in the marketing area on routes: *Provided,* That the maintenance, care, and management of the dairy herd and other resources and facilities necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and risk of such person and a greater proportion of fluid milk products are distributed in this marketing area on routes than in any other Federal order marketing area: (1) Whose own farm production or Class I sales, whichever is less, does not exceed 2,150 pounds on a daily average during the month, and whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders, or (2) whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders in an amount not to exceed two percent of own farm production: *Provided*, That for the purpose of determining whether such person's sources and quantities of receipts meet the requirements of this subparagraph, any fluid milk products received (other than from his own plant) at retail or wholesale outlets (including vending machines) located in any New England Federal marketing area and operated by such person, by an affiliate, or by any person who controls or is controlled by such person, shall be considered as a part of such person's supply of fluid milk products.

8. Delete paragraphs (j) and (k) of § 990.2 and substitute therefor a new paragraph (j) as follows:

(j) "Dealer" means any person who during the month operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.

9. Delete paragraph (a) of § 990.3 and substitute therefor the following:

(a) "Plant" means the land and buildings, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products: *Provided*, That this definition shall not include any separate building, premises, equipment or facilities used primarily to hold or store packaged fluid milk products in transit on routes.

10. Delete paragraph (b) of § 990.3 and substitute therefor the following:

(b) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.

11. Delete paragraph (c) of § 990.3 and substitute therefor the following:

(c) "Pool plant" means:

(1) Any receiving plant (except the plant of a producer-handler under any Federal order) from which at least 10 percent of its total receipts of milk directly from dairy farmers is disposed of during the month within the marketing area on routes and not less than 50 percent of its total receipts of fluid milk products is disposed of during the month as Class I milk, unless the market administrator determines that such plant disposed of a greater proportion of its Class I milk in another Federal order marketing area on routes than was so disposed of in this marketing area.

(2) Any receiving plant located in the marketing area and operated by an association of producers in any month in which the quantity of Class I milk disposed of on routes from such plant does not exceed two percent of its total receipts of fluid milk products, or

(3) Except as provided in subdivisions (i) to (iv) of this subparagraph any receiving plant (other than a plant fully regulated under the provisions of any Federal order on the basis of its route disposition) from which not less than 30 percent of its receipts of milk directly from dairy farmers is shipped during the month as fluid milk products to a pool plant qualified pursuant to subparagraph (1) of this paragraph or to a regulated plant other than a pool plant.

(i) Any plant qualifying as a pool plant pursuant to this subparagraph, other than a plant which retains automatic pool plant status for the month under subdivision (ii) or (iii) of this subparagraph, shall be a nonpool plant in any month of December through June in which it retains automatic pool plant status under another New England Federal order, or in any month in which it qualifies for pooling under another Federal order on the basis of shipments, which exceed the shipments qualifying such plant for pooling pursuant to this subparagraph unless such greater shipments are made to Boston regulated plants and the plant is designated as a nonpool plant under the Boston order for such month.

(ii) Any plant which was a pool plant pursuant to this subparagraph in each of the months of July through November or which held comparable supply-type pool plant status under one or another of the New England Federal orders in each month of such period but had the greater proportion of its producer receipts pooled under this part during such period shall be a pool plant in the immediately succeeding months of December through June, unless the operator thereof gives written notice to the market administrator on or before the 16th day of any such month that the plant is a nonpool plant for such month: *Provided*, That any such plant which was a nonpool plant in any of the months of July through November and for which nonpool status is requested for any month of December through June or any plant which was a pool plant in each of such months of July through November but which is operated as a nonpool plant under all of the New England Federal orders in any of the months of December through June shall be a pool plant in any subsequent month of such period only if it meets the shipping requirements pursuant to this subparagraph.

(iii) Any plant which was not a pool plant under this part during each of the months of July through November but which met the pooling requirements pursuant to this subparagraph in each of such months shall be a pool plant in any of the months of December through June, if written request for pooling status is made to the market administrator on or before the 16th day of such month and such plant is not a pool plant under another Federal order in such month, except that if such plant was a nonpool plant under all of the New England orders in any of the months of December through June, it shall be a pool plant in any subsequent months of such period only if it meets the shipping requirements pursuant to this subparagraph.

(iv) Any plant which was a nonpool receiving plant under all of the New England orders during any of the months of July through November shall not be a pool plant in any of the months of December through June in which it is operated by the same handler, an affiliate or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler plant.

12. Add a new paragraph (d) at the end of § 990.3 to read as follows:

(d) "Regulated plant" means (1) any pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) in any month in which at least 50 percent of its total receipts of fluid milk products is disposed of as Class I milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes, unless the market administrator determines that such plant disposes of a greater proportion of its Class I milk in another marketing area on routes.

13. Delete from paragraph (a) of § 990.4 the phrase "at a plant".

14. Delete paragraph (f) of § 990.4 and substitute therefor the following:

(f) "Producer milk" means only that skim milk and butterfat contained in milk received at a pool plant directly from producers, including milk diverted from such pool plant in accordance with the conditions set forth in § 990.2(e): *Provided*, That in instances where it can be established to the satisfaction of the market administrator that milk was transferred, by a handler or his agent, from the producer's farm tank into a tank truck during the month, and such milk was not delivered to any plant because of loss or destruction by accident or faulty equipment en route to the plant, such milk shall be accounted for as a receipt of producer milk at the pool plant of the handler where milk from the same farm was received as producer milk during the month.

15. Delete the language of § 990.4(g) following the semicolon at the end of subparagraph (1) and substitute therefor the following:

(2) Received at a pool plant in the form of packaged fluid milk products from a nonpool plant in return for which an equivalent quantity of skim milk and butterfat in the form of bulk milk is moved from a pool plant for processing and packaging during the same month, if such receipt and return occurs during an interval in which the facilities of the pool plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm,

or similar extraordinary circumstances completely beyond the dealer's control; or

(3) In milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.

16. Add a new paragraph (i) at the end of § 990.4 to read as follows:

(i) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.

16a. In § 990.12(k) delete the words "actual or potential".

17. Delete subparagraph (3) of § 990.21 (b) and substitute therefor the following:

(3) Contained in fluid milk products dumped if the conditions of § 990.31(e) are met by the handler;

18. Delete the word "and" and immediately preceding subparagraph (5) of § 990.21(b) and add a new subparagraph (6) immediately after subparagraph (5) of § 990.21(b) as follows: "and (6) contained in fluid milk products lost under extraordinary circumstances completely beyond the control of the handler, if such loss is substantiated by records satisfactory to the market administrator."

19. Delete § 990.22(b) and substitute therefor the following:

(b) As Class I milk if moved to the plant of a producer-handler under this or any other Federal order.

19a. In § 990.22(e) add immediately following the words "except the plant of a producer-handler" the words "under any Federal order".

20. Delete § 990.24 and substitute therefor the following:

§ 990.24 Assignment of skim milk and butterfat classified.

(a) For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 990.30 and shall compute the total pounds of skim milk and butterfat in each class for such handler: *Provided*, That when nonfat milk solids derived from nonfat dry milk, condensed skim milk, or any other product condensed from milk or skim milk, are utilized by such handler, the total pounds of skim milk computed shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids.

(b) Skim milk shall be assigned in the following manner:

(1) Subtract from the pounds of skim milk in Class I milk the pounds of skim milk received during the month as exempt milk.

(2) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk received during the month in packaged fluid milk products from fully regulated plants under the provisions of another Federal order.

(3) Subtract from the pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in a form other than fluid milk products.

(4) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in the form of fluid milk products other than from fully regulated plants under the provisions of another Federal order.

(5) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in inventory of fluid milk products on hand at the end of the month.

(6)(i) During the months of July through September, subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or to 15 percent of the pounds of skim milk in receipts of producer milk, whichever is less.

(ii) During the months of October through June, subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or to 5 percent of the pounds of skim milk in receipts of producer milk, whichever is less.

(7) Subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from fully regulated plants under the provisions of another Federal order, whichever is less.

(8) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month.

(9) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (5) of this paragraph.

(10) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from fully regulated plants under the provisions of another Federal order and not assigned pursuant to subparagraph (7) of this paragraph.

(11) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (6) of this paragraph.

(12) Assign to the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in:

(i) Receipts of fluid milk products from pool plants of other handlers not subject to a zone price differential;

(ii) Receipts of producer milk at the handler's pool plants not subject to a zone price differential;

(iii) Receipts of producer milk at the handler's pool plants to which a zone price differential is applicable equal to the pounds of skim milk disposed of in fluid milk products directly from these plants as Class I milk on routes outside the marketing area;

(iv) Receipts of fluid milk products from pool plants of other handlers not assigned pursuant to subdivision (i) of this subparagraph, in the order of the nearness of the plants to Providence according to their zone locations; and

(v) Receipts of producer milk at the handler's pool plants, not assigned pursuant to subdivisions (ii) and (iii) of this subparagraph, in the order of the nearness of the plants to Providence according to their zone locations.

(13) Any remaining pounds of skim milk in each class not assigned shall be known as "overage".

(c) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (b) of this section.

(d) Add the pounds of skim milk and butterfat in each class, pursuant to paragraphs (b) and (c) of this section.

21. Delete the proviso in § 990.30.

22. Delete paragraph (e) of § 990.31 and substitute therefor the following:

(e) Each regulated handler dumping pursuant to § 990.21(b)(3) shall give the market administrator such advance notice of intention to dump as the market administrator may require. For each dumping not witnessed by the market administrator or his agent each handler shall mail or deliver to the market administrator within 48 hours following such dumping a report in writing as prescribed by the market administrator, showing the date on which the dumping was made and the quantity dumped, such report to be signed by both the person who dumped the product and the person authorized to sign reports for the handler made pursuant to § 990.30 (if the latter person is not available to sign the report within the 48-hour period, the signature of the plant manager or superintendent shall be made on the report).

23. Delete paragraph (a) of § 990.40 and substitute therefor the following:

(a) *Class I price.* The Class I price shall be the New England basic Class I price per hundredweight determined pursuant to § 990.41 plus 54 cents.

24. In § 990.45 change the reference "§ 990.20" to "§ 990.22" and delete the period (.) at the end of the section and add the words "under any Federal order".

25. In paragraph (a) of § 990.46 change the reference "§ 990.24(b)(1)" to "§ 990.24 (b)(3) or (c)".

26. Delete paragraph (b) of § 990.46 and substitute therefor the following:

(b) Each pool handler who received other source milk (other than from a regulated plant) which is allocated to Class I pursuant to § 990.24 (b)(4) or (c) shall make payment on the quantity so allocated at the difference between the Class I and Class II price computed pursuant to § 990.40 for the zone location of the nonpool plant from which such milk was received: *Provided*, That for the purposes of this paragraph, other source milk received from dairy farmers for other markets shall be considered as received from the nonpool plant to which they ordinarily delivered.

27. Delete paragraph (c) of § 990.46 and substitute therefor the following:

(c) Each pool handler who receives other source milk which is allocated to Class I pursuant to § 990.24(b) (2) or (10) and the corresponding steps of (c) which milk is not classified and priced as Class I under the originating order shall make payment on the volume of such milk so allocated at the difference between the Class I price and the Class II price computed pursuant to § 990.40 for the zone location of the plant from which such other source milk was received.

28. Delete paragraph (d) of § 990.46 and substitute therefor the following:

(d) Each nonpool handler (except a producer-handler under any Federal order), operating an unregulated plant, who disposes of fluid milk products (other than certified milk or certified skim milk) in the marketing area on routes shall make payment at the difference between the Class I price and the Class II price for the zone location of his plant on the amount of such disposition which is in excess of his receipts of fluid milk products classified and priced as Class I milk under this or any other Federal order: *Provided,* That the same receipts of priced milk shall not be used to offset Class I sales in both this market and any other Federal order market.

29. Delete paragraph (e) of § 990.46 and substitute therefor the following:

(e) Each handler operating a regulated plant other than a pool plant shall make payment at the difference between the Class I price and the Class II price for the zone location of his plant on the amount of his Class I utilization (other than exempt milk) which is in excess of his receipts of fluid milk products classified and priced as Class I milk under this or any other Federal order.

30. Add a new § 990.47 to read as follows:

§ 990.47 Other Federal order plants.

Any plant qualifying for pooling under this and any other Federal order and which is fully regulated under such other Federal order notwithstanding its status under this order shall be exempt from the provisions of this order except as provided in §§ 990.30(b), 990.32 and 990.33.

30a. Add a new § 990.48 to read as follows:

§ 990.48 Pooling provisions for the period from the effective date of this amending order through June 1961.

During the period from the effective date of this amending order through June 1961 all of the conditions of pooling (plant, producer and dairy farmer for other markets) applicable to the period July through November shall be considered to have been met if such conditions are met for the period from the effective date of this amending order through November 1960.

31. In paragraph (c) of § 990.50 change the reference "§ 990.24(b) (10)" to "§ 990.24(b) (13)."

32. Delete paragraph (d) of § 990.50 and substitute therefor the following:

(d) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent quantity of skim milk and butterfat, respectively, was allocated to Class II in the preceding month by the hundredweight of skim milk and butterfat, respectively, subtracted from Class I milk pursuant to § 990.24 (b) (8) and (c) for the month which is in excess of the hundredweight of skim milk and butterfat, respectively, allocated to Class II milk pursuant to § 990.24 (b) (10) and (c) during the preceding month and classified and priced as Class I under the provisions of another Federal order.

33. Delete the proviso as it appears in subparagraph (1) of § 990.60(a).

34. Delete subparagraph (2) of § 990.60 (a) and substitute therefor the following:

(2) On or before the 20th day after the end of each month, for the quantity of milk received during the month, at not less than the basic blended price per hundredweight computed pursuant to § 990.51 subject to the differentials provided in §§ 990.61, 990.62, and 990.63 less payments made to such producer pursuant to subparagraph (1) of this paragraph: *Provided,* That with respect to each deduction for hauling or for any other purpose made from such payment, the burden shall rest upon the handler making the deduction to prove that each deduction is authorized and properly chargeable to the producer: *And provided further,* That if by such date such handler has not received full payment from the market administrator pursuant to § 990.66 for such milk, he may reduce pro rata his payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date next following for making payment pursuant to this paragraph after receipt of the balance due from the market administrator.

35. In § 990.64 insert after the phrase "all payments made by handlers" the words "of monies due producers".

36. Delete the words "following that" as they appear near the end of paragraph (c) of § 990.67.

37. Delete § 990.68 and substitute therefor the following:

§ 990.68 Overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to § 990.46; and § 990.65 to § 990.70 shall be increased one-half of one percent on the 19th day of the month and on the same day of each month thereafter until such obligation is paid.

38. Delete the words "market administrator" as they first appear in paragraph (a) of § 990.69 and substitute therefor the word "Secretary".

39. Delete the word "20th" as it appears in paragraph (a) of § 990.69 and substitute therefor the word "16th".

40. Delete the phrase "as determined by the Secretary, which" as it appears in paragraph (b) of § 990.69 and substitute therefor the phrase "which the Secretary determines".

41. Delete the word "20th" as it appears in paragraph (b) of § 990.69 and substitute therefor the word "18th".

42. Delete the word "20th" as it appears in § 990.70 and substitute therefor the word "16th".

43. Delete paragraphs (a), (b) and (c) of § 990.70 and substitute therefor the following:

(a) Each pool handler shall make such payment with respect to all: (1) Receipts of producer milk including such handler's own production; (2) receipts of exempt milk; and (3) receipts of other source milk classified as Class I except receipts from fully regulated plants under another Federal order.

(b) Each handler operating a regulated plant other than a pool plant shall make such payment with respect to receipts of other source milk in his plant which are classified as Class I except receipts from fully regulated plants under another Federal order.

(c) Except as provided in paragraph (b) of this section each nonpool handler shall make such payment with respect to any disposition of Class I milk in the marketing area on routes in excess of his receipts of pool milk or milk from fully regulated plants under another Federal order and classified and priced as Class I.

Order[1] Amending the Order Regulating the Handling of Milk in the Springfield, Massachusetts, Marketing Area

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

AUTHORITY: §§ 996.0 to 996.84 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 996.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Springfield, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, four cents per hundredweight or such amount not to exceed four cents per hundredweight as the Secretary may prescribe, with respect to all of the handler's receipts, during the month, of milk from producers, of outside milk, of exempt milk processed at a regulated plant and to the quantity of his route disposition subject to payment under § 996.65(b).

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Springfield, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 996.1 General definitions.

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "Springfield, Massachusetts, marketing area," also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns:

Agawam.	Northampton.
Chicopee.	South Hadley.
Easthampton.	Springfield.
East Longmeadow.	Westfield.
Holyoke.	West Springfield.
Longmeadow.	Wilbraham.
Ludlow.	

(c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I pursuant to § 996.15(a) other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition: *Provided,* That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant shall be considered as a continuation of the route(s) of the plant where such fluid milk products are packaged.

§ 996.2 Definitions of persons.

(a) "Person" means any individual, partnership, corporation, association or any other business unit;

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and perform the duties of the Secretary of Agriculture;

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk;

(d) "Dairy farmer for other markets" means any person described in subparagraphs (1), (2) or (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate any regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(3) Any dairy farmer whose milk is received by a handler at a regulated plant during any of the months of December through June from a farm from which the handler received nonpool milk during any of the preceding months of July through November, except that the term shall not apply if all such nonpool milk was received at that plant and was considered as a receipt from a producer under another New England Federal order or represented receipts from own production by a producer-handler under any New England Federal order. However, in the application of this subparagraph to operations prior to July 1, 1961, the period from the effective date of this amended order through November 1960 shall be substituted for the period of July through November referred to in this subparagraph.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include any person who is a producer-handler under this or any other Federal order, a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered, nor a dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Dealer" means any person who during the month, operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.

(h) "Handler" means: (1) Any person who, during the month, operates a pool plant or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area or (2) any person in his capacity as a subdealer, vendor, or peddler selling fluid milk products on routes from such plants.

(i) "Pool handler" means any person who operates a pool plant.

(j) "Producer-handler" means any person meeting the conditions of subparagraph (1) or (2) of this paragraph who is both a dairy farmer and a handler processing milk from his own production and distributing all or a portion of such milk in the marketing area on routes: *Provided,* That the maintenance, care and management of the dairy herd and other resources and facilities necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and risk of such person and a greater proportion of fluid milk products are distributed in this marketing area on routes than in any other Federal order marketing area.

(1) His own farm production or Class I sales, whichever is less, does not exceed 2,150 pounds on a daily average during the month, and whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders, or

(2) His only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders in an amount not in excess of two percent of own farm production: *Provided,* That for the purpose of determining whether such person's sources and quantities of receipts meet the requirements of this subparagraph, any fluid milk products received (other than from his own plant) at retail or wholesale outlets (including vending machines) located in any New England Federal marketing area and operated by such person, by an affiliate, or by any person who controls or is controlled by such person, shall be considered as a part of such person's supply of fluid milk products.

§ 996.3 Definitions of plants.

(a) "Plant" means the land and buildings, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products, except that this definition shall not include any separate building, premises, equipment and facilities used primarily to hold or store packaged fluid milk products in transit on routes.

(b) "City plant" means any plant which is located within 10 miles of the marketing area.

(c) "Country plant" means any plant which is located beyond 10 miles of the marketing area.

(d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.

(e) "Pool plant" means any receiving plant which meets the applicable conditions and requirements for pool plant status contained in §§ 996.20 and 996.21, except a pool plant under another Federal order or the plant of a producer-handler under any Federal order.

(f) "Distributing plant" means any processing and packaging plant with total Class I disposition of at least 50 percent of its total receipts of fluid milk products and route disposition in the marketing area amounting to not less than 10 percent of such receipts or of receipts from dairy farmers.

(g) "Regulated plant" means: (1) Any pool plant, or (2) any distributing plant (other than the plant of a producer-handler under any Federal order) in any month in which the quantity of its route disposition in the marketing area is in excess of its route disposition in any other New England Federal marketing area.

(h) "Supply plant" means any receiving plant (other than a pool plant under the provisions of this or any other Federal order on the basis of its route disposition) from which fluid milk products are shipped to a distributing plant.

(i) "Other Federal order plant" means a pool plant under another Federal order, or any plant which is not a regulated plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal milk order.

§ 996.4 Definitions of milk and milk products.

(a) "Milk" means the commodity received from a dairy farmer as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half".

(b) "Fluid milk products" means milk, flavored milk, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.

(c) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.

(d) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of one percent of butterfat.

(e) "Half and half" means any fluid milk product, except concentrated milk, the butterfat content of which has been adjusted to at least 10 percent but less than 16 percent.

(f) "Concentrated milk" means the concentrated, unsterilized milk product, resembling plain condensed milk, which is disposed of to retail or wholesale outlets in fluid form for human consumption.

(g) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes sour cream; frozen cream; milk and cream mixtures containing 16 percent or more of butterfat; and 50 percent of the quantity, by weight, of "half and half".

(h) "Producer milk" means milk which a handler has received as milk from producers. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

(i) "Outside milk" means:

(1) All receipts of fluid milk products from sources other than producers, regulated plants, and other Federal order plants, but not including receipts of exempt milk.

(2) All other receipts of milk products, whether or not originally derived from producer milk, which are not fluid milk products but are combined with or converted into fluid milk products, and including cream or other such milk products received or produced at the handler's plant during a prior month.

(j) "Exempt milk" means:

(1) Milk received at a regulated plant in bulk from an unregulated plant to be processed and packaged, and for which an equivalent quantity of packaged fluid milk products is returned to the opera-

tor of the unregulated plant during the same month, if such receipt of bulk milk and return of packaged fluid milk products occur during an interval in which the facilities of the unregulated plant at which the milk is usually processed and packaged are temporarily unusable because of a fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control; or

(2) Packaged fluid milk products received at a regulated plant from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and packaging during the same month, if such movement of bulk milk and receipt of packaged fluid milk products occur during an interval in which the facilities of the regulated plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control; or

(3) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.

(k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted.

(1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused milk to be moved from the farm as producer milk, or caused milk to be moved as producer milk from the farm by tank truck; or

(2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

MARKET ADMINISTRATOR

§ 996.10 Designation of market administrator.

The agency for the administration of this part shall be a market administrator selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 996.11 Powers of market administrator.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 996.12 Duties of market administrator.

The market administrator, in addition to the duties described in other sections of this part, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to exercise his powers and perform his duties;

(c) Pay, out of the funds provided by § 996.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(d) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor, or to such other person as the Secretary may designate;

(e) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this part;

(f) Promptly verify the information contained in the reports submitted by handlers; and

(g) Give each of the producers delivering to a plant, as reported by the handler, prompt written notice of his loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION

§ 996.15 Classes of utilization.

All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 996.16 and 996.17, the classes of utilization shall be as follows:

(a) Class I milk shall be:

(1) All milk and milk products sold, distributed, or disposed of as or in milk;

(2) All milk and milk products sold, distributed, or disposed of for human consumption as or in flavored milk, skim milk, flavored or cultured skim milk, or buttermilk;

(3) Ninety-eight percent, by weight, of the milk and milk products used to produce concentrated milk; and

(4) All milk and milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all milk and milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as specified in subparagraphs (1), (2), and (3) of paragraph (a) of this section; and

(2) As plant shrinkage, not in excess of 2 percent of the volume of fluid milk products and cream handled.

§ 996.16 Classification of fluid milk products moved to other plants.

Any fluid milk products moved from a regulated plant to any other plant shall be classified as follows:

(a) As Class I milk if moved as packaged fluid milk products to any other plant;

(b) As Class I milk if moved to the plant of a producer-handler under any Federal order;

(c) In the class to which it is assigned under §§ 996.25 and 996.26 if moved as bulk fluid milk products to any other handler's regulated plant;

(d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a regulated plant under another New England Federal order or the New York-New Jersey order;

(e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order or the plant of a producer-handler under any Federal order; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order and thence to another plant located outside the New England States and New York State.

§ 996.17 Responsibility of handlers in establishing the classification of milk.

The burden rests upon the handler who operates a plant to account for any milk and milk products received or available at the plant, and to prove that they should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 996.20 Basic pooling requirements.

Each receiving plant shall be considered to have met the basic pooling requirements in any month in which it meets the applicable conditions of this section.

(a) It is a distributing plant with a greater quantity of its route disposition in the marketing area than in any other New England Federal marketing area.

(b) It is a plant located in the marketing area which is operated by an association of producers and the Class I route disposition from the plant does not exceed 2 percent of the total receipts of fluid milk products at the plant.

(c) It is a supply plant from which at least 30 percent of its total receipts of milk from dairy farmers is shipped as fluid milk products to regulated distributing plants.

§ 996.21 Supplementary pooling provisions for supply plants.

(a) Any supply plant shall have automatic pool plant status in any month in the period December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if it was a supply-type pool plant in each of the preceding months of July through November, or if it would have been a supply-type pool plant in each of such months had it not been a pool plant under another New England Federal order and the market administrator has received the handler's written request for such automatic status for the plant on or before the 16th day of the month, unless:

(1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this order;

(2) The plant is designated as a nonpool plant pursuant to paragraph (e) of this section; or

(3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.

(b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if it was a supply-type pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this order than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which the plant is designated as a nonpool plant pursuant to paragraph (e) of this section.

(c) Any supply plant, except a plant which has automatic pool plant status for the month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it either has automatic pool plant status under another New England Federal order or makes a greater quantity of qualifying shipments of fluid milk products to regulated plants under another New England Federal order than to regulated plants under this order and meets all of the other applicable conditions and requirements for pool plant status under such other order.

(d) Any supply plant shall be a nonpool plant in each of the months of December through June if it was a nonpool receiving plant under each of the New England Federal orders during any of the preceding months of July through November in which it was operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler's plant under any New England Federal order.

(e) A supply plant which would otherwise have automatic pool plant status for the month shall be a nonpool plant in any of the months of December through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month.

(f) In the application of the supplementary pooling provisions for supply plants contained in this section to operations prior to July 1, 1961, the period from the effective date of this amended order through November 1960 shall be substituted for the period July through November in each instance in which the latter period is referred to in this section.

ASSIGNMENT OF RECEIPTS TO CLASSES

§ 996.25 Assignment of receipts at regulated plants to Class I milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk;

(b) Receipts from other Federal order plants of packaged fluid milk products classified and priced as Class I milk under the other Federal order;

(c) Receipts from other handlers' regulated plants of packaged fluid milk products;

(d) Receipts from regulated plants under the Boston order of bulk fluid milk products classified as Class I milk under the Boston order;

(e) Receipts from other handlers' regulated city plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers;

(f) Receipts from producers at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of outside the marketing area without being received at a city plant;

(g) Receipts from producers at the handler's city plant;

(h) Receipts from other handlers; regulated country plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers, in the order of the nearness of the originating plants to Springfield according to their zone locations;

(i) Receipts from producers at the handler's country plants not assigned pursuant to paragraph (f) of this section, in the order of the nearness of the plants to Springfield according to their zone locations;

(j) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk under paragraphs (e) and (h) of this section, in the order of the nearness of the originating plants to Springfield according to their zone locations;

(k) Receipts from other Federal order plants of bulk fluid milk products not assigned to Class I milk under paragraph (d) of this section, but classified and priced as Class I milk under the other Federal order or subject to such classification and pricing if assigned to Class I milk under this order. If there are receipts from more than one other Federal order market, the remaining Class I milk shall be prorated between the originating markets, except that if the handler has route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of route disposition in such market by the handler;

(l) Receipts from other Federal order plants of fluid milk products not assigned to Class I milk under paragraphs (b), (d), and (k) of this section;

(m) Receipts of outside milk in the form of fluid milk products, in the order of the nearness of the unregulated plants to Springfield according to their zone locations; and

(n) All other receipts, or available quantities of fluid milk products, from whatever source derived.

§ 996.26 Assignment of receipts at regulated plants to Class II milk.

Receipts at regulated plants of milk and milk products which are not assigned to Class I milk pursuant to § 996.25 shall be assigned to Class II milk.

REPORTS OF HANDLERS

§ 996.30 Pool handlers' reports of receipts and utilization.

On or before the 8th day after the end of each month each pool handler shall, with respect to the milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products at each plant from any other handler, assigned to classes pursuant to §§ 996.25 and 996.26;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The quantities from whatever source derived which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 996.15 through 996.17.

§ 996.31 Reports of nonpool handlers.

Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 996.32 Reports regarding individual producers.

(a) Within 20 days after a producer moves from one farm to another, starts or resumes deliveries to any of a handler's pool plants, or starts delivering his milk to the handler's plant by tank truck, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

§ 996.33 Reports of payments to producers.

Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month, which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 996.34 Maintenance of records.

Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 996.35 Verification of reports.

For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this part;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

§ 996.36 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 996.37 Notices to producers.

Each pool handler shall furnish each producer from whom he receives milk with information regarding the daily weight and composite butterfat test of the producer's milk, as follows:

(a) Within 3 days after each day on which he receives milk from the producer, the handler shall give the producer written notice of the daily quantity so received.

(b) Within 7 days after the end of any sampling period for which the composite butterfat test of the producer's milk was determined, the handler shall give the producer written notice of such composite test.

Minimum Class Prices

§ 996.40 Class I price at city plants.

The Class I price per hundredweight at city plants shall be the New England basic Class I price per hundredweight determined for each month pursuant to § 996.48 plus 54 cents.

§ 996.41 Class II price at city plants.

The Class II price per hundredweight at city plants shall be the Class II price determined for each month pursuant to § 904.41 of the Boston order plus 5.8 cents.

§ 996.42 Country plant zone price differentials.

In the case of receipts at country plants, the prices determined pursuant to §§ 996.40, 996.41, and 996.51 shall be subject to zone price differentials based upon the zone location of the plant at which the milk is received from producers.

(a) The zone location of each country plant shall be based upon its highway mileage distance to Springfield as determined by use of the appropriate State maps contained in Mileage Guide No. 6, and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The distance shall be the lowest highway mileage between Springfield and the named point on the map which is nearest to the plant, over roads designated thereon as paved, first-class, all-weather roads. In the event that the named point is not located on a through first-class road, such other roads shall be used to reach a through first-class road as will result in the lowest highway mileage to Springfield, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through first-class road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(b) The zone price differentials for each country plant shall be those applicable to its zone location as shown in the following table.

Country Plant Zone Price Differentials

A	B	C	D
Distance to Springfield (miles)	Zone	Class I and blended price differentials (cents per hundredweight)	Class II price differentials (cents per hundredweight)
40 or less	4	−17.0	−2.0
41 to 50	5	−34.8	−2.0
51 to 60	6	−36.0	−3.0
61 to 70	7	−37.2	−3.0
71 to 80	8	−38.4	−3.0
81 to 90	9	−39.6	−3.0
91 to 100	10	−40.8	−3.0
101 to 110	11	−42.0	−4.5
111 to 120	12	−43.2	−4.5
121 to 130	13	−44.4	−4.5
131 to 140	14	−45.6	−4.5
141 to 150	15	−46.8	−4.5
151 to 160	16	−48.0	−6.0
161 to 170	17	−49.2	−6.0
171 to 180	18	−50.4	−6.0
181 to 190	19	−51.6	−6.0
191 to 200	20	−52.8	−6.0
201 to 210	21	−54.0	−7.0
211 to 220	22	−55.0	−7.0
221 to 230	23	−56.0	−7.0
231 to 240	24	−57.0	−7.0
241 to 250	25	−58.0	−7.0
251 to 260	26	−59.0	−8.0
261 to 270	27	−60.0	−8.0
271 to 280	28	−61.0	−8.0
281 to 290	20	−62.0	−8.0
291 to 300	30	−63.0	−8.0
801 and over	31 and over	[1]	−8.0

[1] Class I and blended price differentials applicable to plants located more than 300 miles from Springfield shall be obtained by extending the table at the rate of one cent for each additional 10 miles, except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in such zone.

§ 996.44 Use of equivalent factors in formulas.

If for any reason a price, index, or wage rate specified by this part for use in computing class prices and for other purposes is not reported or published in the manner described in this order, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

§ 996.45 Announcement of class prices.

The market administrator shall make public announcements of the class prices as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price on or before the 5th day after the end of each month.

New England Basic Price Formula

§ 996.48 Computation of New England basic Class I price.

The New England basic Class I price per hundredweight of milk containing 3.7 percent butterfat shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding work day shall be used.

(a) Compute the economic index as follows:

(1) Divide by 1.190 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor with the years 1947–49 as the base period.

(2) Using the data on per capita personal income, by States and regions, as published by the United States Department of Commerce, establish a "New England adjustment percentage" by computing the current percentage relationship of New England per capita personal income to per capita personal income in continental United States. Multiply by the New England adjustment percentage the quarterly figure showing the current annual rate of per capita disposable personal income in the United States as released by the United States Department of Commerce or the Council of Economic Advisers to the President. Divide the result by 20.50 to determine an index of per capita disposable personal income in New England.

(3) Multiply by 20 the average price per 100 pounds paid by farmers in the New England region for all mixed dairy feed of less than 29 percent protein content as reported by the United States Department of Agriculture for the month and divide the result by .8082 to determine the dairy ration index. Compute the average, weighted by the indicated factors, of the following farm wage rates reported for the New England region by the United States Department of Agriculture: Rate per month with board and room, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and the rate per day without board or room, 26. Divide the average wage rate so computed by 1.9833 to determine the wage rate index. Multiply the dairy ration index by 0.6 and the wage rate index by 0.4 and combine the two results to determine the grain-labor cost index.

(4) Divide by 7 the sum of three times the wholesale price index, the index of per capita disposable income in New England, and three times the grain-labor cost index determined pursuant to this paragraph. The result shall be known as the economic index.

(b) Compute an economic index price as follows:

(1) Multiply the economic index by $.0567, expressing the result to the nearest mill;

(2) Divide the Class I-A price for the month determined pursuant to Federal Order No. 27 and applicable to the 201–210-mile freight zone for 3.5 percent milk by the product of the utilization adjustment percentage and the seasonal adjustment factor which entered into the computation thereof, and then add $.08, expressing the result to the nearest mill;

(3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, unless the difference between the result computed in subparagraph (1) of this paragraph and the result computed in subparagraph (2) of this paragraph exceeds 11 cents. In that event, the economic index price shall be the price computed pursuant to subparagraph (1) of this paragraph minus the amount of the excess above 11 cents if the result under subparagraph (1) of this paragraph is the greater, and plus the amount of the excess above 11 cents if the result under subparagraph (2) of this paragraph is the greater.

(c) Compute a supply-demand adjustment factor as follows:

(1) Combine into separate monthly totals the receipts from producers for Greater Boston, Connecticut, Southeastern New England, Springfield, and Worcester and the Class I milk from producers for the same markets as announced by the respective market administrators in the statistical reports for such markets for the second and third months preceding the month for which the price is being computed.

(2) Divide the five-market total of Class I producer milk by the five-market total of receipts from producers for each of the two months for which computations were made pursuant to subparagraph (1) of this paragraph.

(3) Divide each of the percentages determined in subparagraph (2) of this paragraph into the following base Class I percentage for the respective month, multiply each result by 100, and compute a simple average of the resulting percentages. The result shall be known as the percentage of base supply.

Month:	*Base class I percentage*
January	71.6
February	69.8
March	65.1
April	61.1
May	55.5
June	56.7
July	69.3
August	74.7
September	75.8
October	76.5
November	77.9
December	73.0

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Percentage of base supply: [1]	*Supply-demand adjustment factor*
90.5–91.5	1.06
92.0–93.0	1.05
93.5–94.5	1.04
95.0–96.0	1.03
96.5–97.5	1.02
98.0–99.0	1.01
99.5–100.5	1.00
101.0–102.0	.99
102.5–103.5	.98
104.0–105.0	.97
105.5–106.5	.96
107.0–108.0	.95
108.5–109.5	.94

[1] If the percentage of base supply calculated according to subparagraph (4) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.

(d) The seasonal adjustment factor shall be the factor listed below for the month for which the price is being computed.

Month:	*Seasonal adjustment factor*
January and February	1.04
March	1.00
April	.92
May and June	.88
July	.96
August	1.00
September	1.04
October, November and December	1.08

(e) Multiply the Economic Index price determined pursuant to paragraph (b) of this section by the product of the supply-demand adjustment factor determined pursuant to paragraph (c) of this section times the seasonal adjustment factor determined pursuant to paragraph (d) of this section. The New England basic Class I price shall be the price set forth in column 3 of the following table opposite the range within which the result of this computation falls.

Range		New England basic Class I price
At least—	But less than—	
[1] $4.86	$5.08	$4.97
5.08	5.30	5.19
5.30	5.52	5.41
5.52	5.74	5.63
5.74	5.96	5.85
5.96	6.18	6.07
6.18	6.40	6.29
6.40	6.62	6.51
6.62	6.84	6.73
6.84	[1] 7.06	6.95

[1] If the result of the computation specified in this paragraph is less than $4.86 or is $7.06 or more, the New England basic Class I price shall be determined by extending the table at the indicated rate of extension.

(f) Notwithstanding the provisions of the preceding paragraphs of this section, the New England basic Class I price for November or December of each year shall not be lower than such price for the immediately preceding month.

BLENDED PRICES TO PRODUCERS

§ 996.50 Computation of value of milk received from producers.

For each month, the market administrator shall compute the value of milk received from producers by each pool handler in the following manner:

(a) Multiply the quantities of milk received from producers assigned to Class I milk pursuant to § 996.25 by the applicable prices pursuant to §§ 996.40 and 996.42;

(b) Multiply the quantities of milk received from producers assigned to Class II milk pursuant to § 996.26 by the applicable prices pursuant to §§ 996.41 and 996.42; and

(c) Add together the resulting value of each class.

§ 996.51 Computation of the basic blended price.

The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective net values of milk computed pursuant to § 996.50 and the payments required pursuant to § 996.65 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 996.61(b) and 996.65 for the preceding month;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 996.61, 996.62, 996.65, and 996.67;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to § 996.64;

(d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 996.61 and 996.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at city plants, shall be known as the basic blended price.

§ 996.52 Announcement of blended prices.

On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the Act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the differentials pursuant to § 996.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this part.

PAYMENTS FOR MILK

§ 996.60 Advance payments.

On or before the 5th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month.

§ 996.61 Final payments.

Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 996.50, as follows:

(a) On or before the 20th day after the end of each month, to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§996.63 and 996.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to the market administrator on or before the 18th day after the end of each month, or receiving from the market administrator on or before the 20th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 996.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 996.50, as shown in a statement rendered by the market administrator on or before the 15th day after the end of such month.

§ 996.62 Adjustments of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses an error in payments made pursuant to §§ 996.61(b) and 996.65, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th day of the prior month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

(b) Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 996.61(a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

§ 996.63 Butterfat differential.

Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, the amount per hundredweight determined for the corresponding month pursuant to § 904.63 of this chapter.

§ 996.64 Location differentials.

The payments to be made to producers by handlers pursuant to § 996.61(a) shall be subject to the differentials set forth in Column C of the table in § 996.42 and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located in any of the following cities or towns, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 996.40 and 996.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price:

MASSACHUSETTS

Becket.	Sandisfield.
Florida.	Savoy.
Hinsdale.	Washington.
Otis.	Windsor.
Peru.	

NEW HAMPSHIRE

Chesterfield.	Westmoreland.

VERMONT

Brattleboro.	Newfane.
Dover.	Putney.
Dummerston.	Wilmington.
Marlboro.	

(b) With respect to milk delivered by a producer whose farm is located in Franklin, Hampshire, Hampden, or Worcester Counties in Massachusetts, or in any of the following cities or towns, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 996.40 and 996.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price:

CONNECTICUT

Ellington.	Somers.
Enfield.	Stafford.
Granby.	Suffield.

NEW HAMPSHIRE

Hinsdale.	Winchester.

VERMONT

Guilford.	Vernon.
Halifax.	Whitingham.
Readsboro.	

§ 996.65 Payments on outside milk and receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator as follows:

(a) Each handler operating a regulated plant at which there are assigned to Class I milk receipts of outside milk, or receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order, shall make payment as follows:

(1) On such receipts assigned pursuant to § 996.25 (l) or (m), at the difference between the price pursuant to § 996.40 and the price pursuant to § 996.41 applicable at the zone location of the unregulated plant. Receipts from each dairy farmer for other markets shall be considered as receipts from the unregulated plant to which he ordinarily delivered; and

(2) On quantities assigned pursuant to § 996.25(n) at the difference between the price pursuant to § 996.40 and the price pursuant to § 996.41 applicable at the handler's regulated plant nearest to Springfield.

(b) Each handler, except a producer-handler under any Federal order, who operates an unregulated plant with route disposition in the marketing area shall make payment at the difference between the price pursuant to § 996.40 and the price pursuant to § 996.41 applicable at the zone location of the handler's plant on the quantity of such disposition which is in excess of the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order, except that the same receipts of priced milk shall not be used to offset route disposition in this marketing area and in any other Federal marketing area.

§ 996.66 Deductions from payments to producers.

In making payments to producers as required by §§ 996.60 and 996.61(a), the burden shall rest upon the handler making deductions from such payments to prove that each deduction is properly authorized, and properly chargeable to the producer.

§ 996.67 Adjustment of overdue accounts.

Any balance due, pursuant to §§ 996.61, 996.62, and 996.65, to or from the market administrator on the 20th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent effective the 21st day of such month: *Provided*, That any remittance received by the market administrator after the 20th day of any month in an envelope which is postmarked not later than the 18th day of such month, shall be considered under this section to have been received by the 20th of the month.

§ 996.68 Statements to producers.

In making the payments to producers prescribed by § 996.61(a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 996.61 (a);

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 996.66, 996.70, and 996.71, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

MARKETING SERVICES

§ 996.70 Marketing service deduction; nonmembers of an association of producers.

In making payments to producers pursuant to § 996.61(a), each handler shall, with respect to all milk delivered by each producer other than himself during each month, except as set forth in § 996.71, deduct 3 cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, and shall, on or before the 18th day after the end of each month, pay such deductions to the market administrator. Such monies shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

§ 996.71 Marketing service deduction; members of an association of producers.

In the case of producers who are members of an association of producers which the Secretary determines is actually performing the services set forth in § 996.70, each handler shall, in lieu of the deductions specified in § 996.70, make such deductions from payments made pursuant to § 996.61(a) as may be authorized by such producers and pay, on or before the 20th day after the end of each month, such deductions to such associations, accompanied by a statement showing the pounds of milk delivered by each producer from whom the deduction was made.

ADMINISTRATION EXPENSE

§ 996.72 Payment of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe, and shall apply to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant and to the quantity of his route disposition in the marketing area which is subject to payments under § 996.65(b).

OBLIGATIONS

§ 996.73 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 996.80 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 996.81.

§ 996.81 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 996.82 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 996.83 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected, pursuant to the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 996.84 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Order[1] *Amending the Order Regulating the Handling of Milk in the Worcester, Massachusetts, Marketing Area*

AUTHORITY: §§ 999.0 to 999.84 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 999.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Worcester, Massachusetts, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, four cents per hundredweight or such amount not to exceed four cents per hundredweight as the Secretary may prescribe, with respect to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant and to the quantity of his route disposition subject to payments under § 999.65(b).

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Worcester, Massachusetts, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

§ 999.1 General definitions.

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "Worcester, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns:

Auburn.	Oxford.
Boylston.	Paxton.
Charlton.	Princeton.
Clinton.	Rutland.
Dudley.	Worcester.
Fitchburg.	Shrewsbury.
Gardner.	Southbridge.
Grafton.	Spencer.
Holden.	Sterling.
Lancaster.	Sutton.
Leicester.	Upton.
Leominster.	Webster.
Lunenburg.	Westborough.
Millbury.	West Boylston.
Northborough.	Westminster.

(c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I pursuant to § 999.15(a) other than in bulk to a plant or in packaged form to a plant

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

which packages fluid milk products for Class I disposition: *Provided*, That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant shall be considered as a continuation of the route(s) of the plant where such fluid milk products are packaged.

§ 999.2 Definitions of persons.

(a) "Person" means any individual, partnership, corporation, association, or any other business unit;

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and perform the duties of the Secretary of Agriculture;

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk;

(d) "Dairy farmer for other markets" means any person described in subparagraph (1), (2) or (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate any regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(3) Any dairy farmer whose milk is received by a handler at a regulated plant during any of the months of December through June from a farm from which the handler received nonpool milk during any of the preceding months of July through November except that the term shall not apply if all such nonpool milk was received at that plant and was considered as a receipt from a producer under another New England Federal order or represented receipts from own production by a producer-handler under any New England Federal order. However, in the application of this subparagraph to operations prior to July 1, 1961, the period from the effective date of this amended order through November 1960 shall be substituted for the period of July through November referred to in this subparagraph.

(4) For purposes of this paragraph, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by such handler or dealer.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include any person who is a producer-handler under this or any other Federal order, a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered nor a dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Dealer" means any person who, during the month, operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.

(h) "Handler" means (1) Any person who, during the month, operates a pool plant or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area, or (2) any person in his capacity as a subdealer, vendor, or peddler selling fluid milk products on routes from such plants.

(i) "Pool handler" means any handler who operates a pool plant.

(j) "Producer-handler" means any person meeting the conditions of subparagraph (1) or (2) of this paragraph who is both a dairy farmer and a handler, processing milk from his own production and distributing all or a portion of such milk in the marketing area on routes: *Provided*, That the maintenance, care and management of the dairy herd and other resources and facilities necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and risk of such person, and a greater proportion of fluid milk products are distributed in this marketing area on routes than in any other Federal order marketing area:

(1) His own farm production or Class I sales, whichever is less, does not exceed 2,150 pounds on a daily average during the month, and whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders, or

(2) His only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders in an amount not in excess of two percent of own farm production: *Provided*, That for the purpose of determining whether such person's sources and quantities of receipts meet the requirements of this subparagraph any fluid milk products received (other than from his own plant) at retail or wholesale outlets (including vending machines) located in any New England Federal marketing area and operated by such person, by an affiliate, or by any person who controls or is controlled by such person shall be considered as a part of such person's supply of fluid milk products.

§ 999.3 Definitions of plants.

(a) "Plant" means the land and buildings, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products, except that this definition shall not include any separate building, premises, equipment and facilities used primarily to hold or store packaged fluid milk products in transit on routes.

(b) "City plant" means any plant which is located within 10 miles of the marketing area.

(c) "Country plant" means any plant which is located beyond 10 miles of the marketing area.

(d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled, or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.

(e) "Pool plant" means any receiving plant which meets the applicable conditions and requirements for pool plant status contained in §§ 999.20 and 999.21, except a pool plant under another Federal order, or the plant of a producer-handler under any Federal order.

(f) "Distributing plant" means any processing and packaging plant with total Class I disposition of at least 50 percent of its total receipts of fluid milk products and route disposition in the marketing area amounting to not less than 10 percent of such receipts or of receipts from dairy farmers.

(g) "Regulated plant" means: (1) any pool plant, or (2) any distributing plant (other than the plant of a producer-handler under any Federal order) in any month in which the quantity of its route disposition in the marketing area is in excess of its route disposition in any other New England Federal marketing area.

(h) "Supply plant" means any receiving plant (other than a pool plant under the provisions of this or any other Federal order on the basis of its route disposition) from which fluid milk products are shipped to a distributing plant.

(i) "Other Federal order plant" means a pool plant under another Federal order, or any plant which is not a regulated plant under the provisions of this order but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal milk order.

§ 999.4 Definitions of milk and milk products.

(a) "Milk" means the commodity received from a dairy farmer as cow's milk.

The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half".

(b) "Fluid milk products" means milk, flavored milk, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.

(c) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.

(d) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of one percent of butterfat.

(e) "Half and half" means any fluid milk product, except concentrated milk, the butterfat content of which has been adjusted to at least 10 percent but less than 16 percent.

(f) "Concentrated milk" means the concentrated, unsterilized milk product, resembling plain condensed milk, which is disposed of to retail or wholesale outlets in fluid form for human consumption.

(g) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes sour cream; frozen cream; milk and cream mixtures containing 16 percent or more of butterfat; and 50 percent of the quantity, by weight, of "half and half".

(h) "Producer milk" means milk which a handler has received as milk from producers. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

(i) "Outside milk" means:

(1) All receipts of fluid milk products from sources other than producers, regulated plants, and other Federal order plants, but not including receipts of exempt milk.

(2) All other receipts of milk products, whether or not originally derived from producer milk, which are not fluid milk products but are combined with or converted into fluid milk products, and including cream or other such milk products received or produced at the handler's plant during a prior month.

(j) "Exempt milk" means:

(1) Milk received at a regulated plant in bulk from an unregulated plant to be processed and packaged, and for which an equivalent quantity of packaged fluid milk products is returned to the operator of the unregulated plant during the same month, if such receipt of bulk milk and return of packaged fluid milk products occur during an interval in which the facilities of the unregulated plant at which the milk is usually processed and packaged are temporarily unusable because of a fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control; or

(2) Packaged fluid milk products received at a regulated plant from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and packaging during the same month, if such movement of bulk milk and receipt of packaged fluid milk products occur during an interval in which the facilities of the regulated plant at which the milk is usually processed and packaged are temporarily unusable because of a fire, flood, storm, or similar extraordinary circumstance completely beyond the handler's control, or

(3) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.

(k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted.

(1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused milk to be moved from the farm as producer milk, or caused milk to be moved as producer milk from the farm by tank truck; or

(2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

MARKET ADMINISTRATOR

§ 999.10 Designation of market administrator.

The agency for the administration of this part shall be a market administrator selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 999.11 Powers of market administrator.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 999.12 Duties of market administrator.

The market administrator, in addition to the duties described in other sections of this part, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to exercise his powers and perform his duties;

(c) Pay, out of the funds provided by § 999.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(d) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor, or to such other person as the Secretary may designate;

(e) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this part;

(f) Promptly verify the information contained in the reports submitted by handlers; and

(g) Give each of the producers delivering to a plant as reported by the handler prompt written notice of his loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

CLASSIFICATION

§ 999.15 Classes of utilization.

All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 999.16 and 999.17, the classes of utilization shall be as follows:

(a) Class I milk shall be:

(1) All milk and milk products sold, distributed, or disposed of as or in milk;

(2) All milk and milk products sold, distributed, or disposed of for human consumption as or in flavored milk, skim milk, flavored or cultured skim milk, or buttermilk;

(3) Ninety-eight percent, by weight, of the milk and milk products used to produce concentrated milk; and

(4) All milk and milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all milk and milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as specified in subparagraphs (1), (2), and (3) of paragraph (a) of this section; and

(2) As plant shrinkage, not in excess of 2 percent of the volume of fluid milk products and cream handled.

§ 999.16 Classification of fluid milk products moved to other plants.

Any fluid milk products moved from a regulated plant to any other plant shall be classified as follows:

(a) As Class I milk if moved as packaged fluid milk products to any other plant;

(b) As Class I milk if moved to the plant of a producer-handler under any Federal order;

(c) In the class to which it is assigned under §§ 999.25 and 999.26 if moved as bulk fluid milk products to any other handler's regulated plant;

(d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a regulated plant under another New England Federal order or the New York-New Jersey order;

(e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order or the plant of a producer-handler under any Federal order; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order and thence to another plant located outside the New England States and New York State.

§ 999.17 Responsibility of handlers in establishing the classification of milk.

The burden rests upon the handler who operates a plant to account for any milk and milk products received or available at the plant, and to prove that they should not be classified as Class I milk.

DETERMINATION OF POOL PLANT STATUS

§ 999.20 Basic pooling requirements.

Each receiving plant shall be considered to have met the basic pooling requirements in any month in which it meets the applicable conditions of this section.

(a) It is a distributing plant with a greater quantity of its route disposition in the marketing area than in any other New England Federal marketing area.

(b) It is a plant located in the marketing area which is operated by an association of producers and the Class I route disposition from the plant does not exceed 2 percent of the total receipts of fluid milk products at the plant.

(c) It is a supply plant from which at least 30 percent of its total receipts of milk from dairy farmers is shipped as fluid milk products to regulated distributing plants.

§ 999.21 Supplementary pooling provisions for supply plants.

(a) Any supply plant shall have automatic pool plant status in any month in the period December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if it was a supply-type pool plant in each of the preceding months of July through November, or if it would have been a supply-type pool plant in each of such months had it not been a pool plant under another New England Federal order and the market administrator has received the handler's written request for such automatic status for the plant on or before the 16th day of the month, unless:

(1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this order;

(2) The plant is designated as a nonpool plant pursuant to paragraph (e) of this section; or

(3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.

(b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if it was a supply-type pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this order than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which the plant is designated as a nonpool plant pursuant to paragraph (e) of this section.

(c) Any supply plant, except a plant which has automatic pool plant status for the month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it either has automatic pool plant status under another New England Federal order or makes a greater quantity of qualifying shipments of fluid milk products to regulated plants under another New England Federal order than to regulated plants under this order and meets all of the other applicable conditions and requirements for pool plant status under such other order.

(d) Any supply plant shall be a nonpool plant in each of the months of December through June if it was a nonpool receiving plant under each of the New England Federal orders during any of the preceding months of July through November in which it was operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler's plant under any New England Federal order.

(e) A supply plant which would otherwise have automatic pool plant status for the month shall be a nonpool plant in any of the months of December through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month.

(f) In the application of the supplementary pooling provisions for supply plants contained in this section to operations prior to July 1, 1961, the period from the effective date of this amended order through November 1960 shall be substituted for the period July through November in each instance in which the latter period is referred to in this section.

ASSIGNMENT OF RECEIPTS TO CLASSES

§ 999.25 Assignment of receipts at regulated plants to Class I milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk;

(b) Receipts from other Federal order plants of packaged fluid milk products classified and priced as Class I milk under the other Federal order;

(c) Receipts from other handlers' regulated plants of packaged fluid milk products;

(d) Receipts from regulated plants under the Boston order of bulk fluid milk products classified as Class I milk under the Boston order;

(e) Receipts from other handlers' regulated city plants of bulk fluid milk products, for which classification as Class II milk has not been requested by both handlers;

(f) Receipts from producers at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of outside the marketing area without being received at a city plant;

(g) Receipts from producers at the handler's city plant;

(h) Receipts from other handlers' regulated country plants of bulk fluid milk products, for which classification as Class II milk has not been requested by both handlers, in the order of the nearness of the originating plants to Worcester according to their zone locations;

(i) Receipts from producers at the handler's country plants not assigned pursuant to paragraph (f) of this section, in the order of the nearness of the plants to Worcester according to their zone locations;

(j) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk under paragraphs (e) and (h) of this section, in the order of the nearness of the originating plants to Worcester according to their zone locations;

(k) Receipts from other Federal order plants of bulk fluid milk products not assigned to Class I milk under paragraph (d) of this section, but classified and priced as Class I milk under the other Federal order or subject to such classification and pricing if assigned to Class I milk under this order. If there are receipts from more than one other Federal order market, the remaining Class I milk shall be prorated between the originating markets, except that if the handler has Class I route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of Class I route disposition in such market by the handler;

(l) Receipts from other Federal order plants of fluid milk products not assigned to Class I milk under paragraphs (b), (d), and (k) of this section;

(m) Receipts of outside milk in the form of fluid milk products, in the order of the nearness of the unregulated plants to Worcester according to their zone locations; and

(n) All other receipts, or available quantities of fluid milk products, from whatever source derived.

§ 999.26 Assignment of receipts at regulated plants to Class II milk.

Receipts at regulated plants of milk and milk products which are not assigned to Class I milk pursuant to § 999.25 shall be assigned to Class II milk.

REPORTS OF HANDLERS

§ 999.30 Pool handlers' reports of receipts and utilization.

On or before the 8th day after the end of each month each pool handler shall, with respect to the milk products received by the handler during the month report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products at each plant from any other handler, assigned to classes pursuant to §§ 999.25 and 999.26;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The quantities from whatever source derived which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 999.15 through 999.17.

§ 999.31 Reports of nonpool handlers.

Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

§ 999.32 Reports regarding individual producers.

(a) Within 20 days after a producer moves from one farm to another, starts or resumes deliveries to any of a handler's pool plants, or starts delivering his milk to the handler's plant by tank truck, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to, starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

§ 999.33 Reports of payments to producers.

Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month, which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butterfat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 999.34 Maintenance of records.

Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

§ 999.35 Verification of reports.

For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this order;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

§ 999.36 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 999.37 Notices to producers.

Each pool handler shall furnish each producer from whom he receives milk with information regarding the daily weight and composite butterfat test of the producer's milk, as follows:

(a) Within 3 days after each day on which he receives milk from the producer, the handler shall give the producer written notice of the daily quantity so received.

(b) Within 7 days after the end of any sampling period for which the composite butterfat test of the producer's milk was determined, the handler shall give the producer written notice of such composite test.

MINIMUM CLASS PRICES

§ 999.40 Class I price at city plants.

The Class I price per hundredweight at city plants shall be the New England basic Class I price per hundredweight determined for each month pursuant to § 999.48 plus 54 cents.

§ 999.41 Class II price at city plants.

The Class II price per hundredweight at city plants shall be the Class II price determined for each month pursuant to § 904.41 of the Boston order plus 5.8 cents.

§ 999.42 Country plant zone price differentials.

In the case of receipts at country plants, the prices determined pursuant to §§ 999.40, 999.41 and 999.51 shall be subject to zone price differentials based upon the zone location of the plant at which the milk is received from producers.

(a) The zone location of each country plant shall be based upon its highway mileage distance to Worcester as determined by use of the appropriate State maps contained in Mileage Guide No. 6, and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The distance shall be the lowest highway mileage between Worcester and the named point on the map which is nearest to the plant, over roads designated thereon as paved, first-class, all-weather roads. In the event that the named point is not located on a through first-class road, such other roads shall be used to reach a through first-class road as will result in the lowest highway mileage to Worcester, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through first-class road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(b) The zone price differentials for each country plant shall be those applicable to its zone location as shown in the following table.

COUNTRY PLANT ZONE PRICE DIFFERENTIALS

A	B	C	D
Distance to Worcester (miles)	Zone	Class I and blended price differentials (cents per hundredweight)	Class II price differentials (cents per hundredweight)
40 or less	4	−17.0	−2.0
41 to 50	5	−34.8	−2.0
51 to 60	6	−36.0	−3.0
61 to 70	7	−37.2	−3.0
71 to 80	8	−38.4	−3.0
81 to 90	9	−39.6	−3.0
91 to 100	10	−40.8	−3.0
101 to 110	11	−42.0	−4.5
111 to 120	12	−43.2	−4.5
121 to 130	13	−44.4	−4.5
131 to 140	14	−45.6	−4.5
141 to 150	15	−46.8	−4.5
151 to 160	16	−48.0	−6.0
161 to 170	17	−49.2	−6.0
171 to 180	18	−50.4	−6.0
181 to 190	19	−51.6	−6.0
191 to 200	20	−52.8	−6.0
201 to 210	21	−54.0	−7.0
211 to 220	22	−55.0	−7.0
221 to 230	23	−56.0	−7.0
231 to 240	24	−57.0	−7.0
241 to 250	25	−58.0	−7.0
251 to 260	26	−59.0	−8.0
261 to 270	27	−60.0	−8.0
271 to 280	28	−61.0	−8.0
281 to 290	29	−62.0	−8.0
291 to 300	30	−63.0	−8.0
301 and over	31 and over	[1]	−8.0

[1] Class I and blended price differentials applicable to plants located more than 300 miles from Worcester shall be obtained by extending the table at the rate of one cent for each additional 10 miles, except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in such zone.

§ 999.44 Use of equivalent factors in formulas.

If for any reason a price, index, or wage rate specified by this part for use in computing class prices and for any other purposes is not reported or published in the manner described in this part, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

§ 999.45 Announcement of class prices.

The market administrator shall make public announcements of the class prices as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price on or before the 5th day after the end of each month.

NEW ENGLAND BASIC PRICE FORMULA

§ 999.48 Computation of New England basic Class I price.

The New England basic Class I price per hundredweight of milk containing 3.7 percent butterfat shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding work day shall be used.

(a) Compute the economic index as follows:

(1) Divide by 1.190 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1947–49 as the base period.

(2) Using the data on per capita personal income, by States and regions, as published by the United States Department of Commerce, establish a "New England adjustment percentage" by computing the current percentage relationship of New England per capita personal income to per capita personal income in continental United States. Multiply by the New England adjustment percentage the quarterly figure showing the current annual rate of per capita disposable personal income in the United States as released by the United States Department of Commerce or the Council of Economic Advisers to the President. Divide the result by 20.50 to determine an index of per capita disposable personal income in New England.

(3) Multiply by 20 the average price per 100 pounds paid by farmers in the New England region for all mixed dairy feed of less than 29 percent protein content as reported by the United States Department of Agriculture for the month and divide the result by .8082 to determine the dairy ration index. Compute the average, weighted by the indicated factors, of the following farm wage rates reported for the New England region by the United States Department of Agriculture: Rate per month with board and room, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and the rate per day without board or room, 26. Divide the average wage rate so computed by 1.9833 to determine the wage rate index. Multiply the dairy ration index by 0.6 and the wage rate index by 0.4 and combine the two results to determine the grain-labor cost index.

(4) Divide by 7 the sum of three times the wholesale price index, the index of per capita disposable income in New England, and three times the grain-labor cost index determined pursuant to this paragraph. The result shall be known as the economic index.

(b) Compute an economic index price as follows:

(1) Multiply the economic index by $.0567, expressing the result to the nearest mill;

(2) Divide the Class I-A price for the month determined pursuant to Federal Order No. 27 and applicable to the 201–210 mile freight zone for 3.5 percent milk by the product of the utilization adjustment percentage and the seasonal adjustment factor which entered into the computation thereof, and then add $0.08, expressing the result to the nearest mill;

(3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, unless the difference between the result computed in subparagraph (1) of this paragraph and the result computed in subparagraph (2) of this paragraph exceeds 11 cents. In that event, the economic index price shall be the price computed pursuant to subparagraph (1) of this paragraph minus the amount of the excess above 11 cents if the result under subparagraph (1) of this paragraph is the greater, and plus the amount of the excess above 11 cents if the result under subparagraph (2) of this paragraph is the greater.

(c) Compute a supply-demand adjustment factor as follows:

(1) Combine into separate monthly totals the receipts from producers for Greater Boston, Connecticut, Southeastern New England, Springfield, and Worcester and the Class I milk from producers for the same markets as announced by the respective market administrators in the statistical reports for such markets for the second and third months preceding the month for which the price is being computed.

(2) Divide the five-market total of Class I producer milk by the five-market total of receipts from producers for each of the two months for which computations were made pursuant to subparagraph (1) of this paragraph.

(3) Divide each of the percentages determined in subparagraph (2) of this paragraph into the following base Class I percentage for the respective month, multiply each result by 100, and compute a simple average of the resulting percentages. The result shall be known as the percentage of base supply.

Month:	*Base Class I percentage*
January	71.6
February	69.8
March	65.1
April	61.1
May	55.5
June	56.7
July	69.3
August	74.7
September	75.8
October	76.5
November	77.9
December	73.0

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Percentage of base supply: [1]	*Supply-demand adjustment factor*
90.5–91.5	1.06
92.0–93.0	1.05
93.5–94.5	1.04
95.0–96.0	1.03
96.5–97.5	1.02
98.0–99.0	1.01
99.5–100.5	1.00
101.0–102.0	.99
102.5–103.5	.98
104.0–105.0	.97
105.5–106.5	.96
107.0–108.0	.95
108.5–109.5	.94

[1] If the percentage of base supply calculated according to subparagraph (4) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.

(d) The seasonal adjustment factor shall be the factor listed below for the month for which the price is being computed.

Month:	*Seasonal adjustment factor*
January and February	1.04
March	1.00
April	.92
May and June	.88
July	.96
August	1.00
September	1.04
October, November, and December	1.08

(e) Multiply the Economic Index price determined pursuant to paragraph (b) of this section by the product of the supply-demand adjustment factor determined pursuant to paragraph (c) of this section times the seasonal adjustment factor determined pursuant to paragraph (d) of this section. The New England basic Class I price shall be the price set forth in column 3 of the following table opposite the range within which the result of this computation falls.

Range		New England basic Class I price
At least—	But less than—	
[1] $4.86	$5.08	$4.97
5.08	5.30	5.19
5.30	5.52	5.41
5.52	5.74	5.63
5.74	5.96	5.85
5.96	6.18	6.07
6.18	6.40	6.29
6.40	6.62	6.51
6.62	6.84	6.73
6.84	[1] 7.06	6.95

[1] If the result of the computation specified in this paragraph is less than $4.86 or is $7.06 or more, the New England basic Class I price shall be determined by extending the table at the indicated rate of extension.

(f) Notwithstanding the provisions of the preceding paragraphs of this section, the New England basic Class I price for November or December of each year shall not be lower than such price for the immediately preceding month.

BLENDED PRICES TO PRODUCERS

§ 999.50 Computation of value of milk received from producers.

For each month, the market administrator shall compute the value of milk received from producers by each pool handler in the following manner:

(a) Multiply the quantities of milk received from producers assigned to Class I milk pursuant to § 999.25 by the applicable prices pursuant to §§ 999.40 and 999.42;

(b) Multiply the quantities of milk received from producers assigned to Class II milk pursuant to § 999.26 by the applicable prices pursuant to §§ 999.41 and 999.42; and

(c) Add together the resulting value of each class.

§ 999.51 Computation of the basic blended price.

The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective net values of milk computed pursuant to §§ 999.50 and the payments required pursuant to § 999.65 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 999.61(b) and 999.65 for the preceding month;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 999.61, 999.62, 999.65, and 999.67;

(c) Deduct the amount of the plus differentials, and add the amount to the minus differentials, which are applicable pursuant to § 999.64;

(d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 999.61 and 999.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at city plants, shall be known as the basic blended price.

§ 999.52 Announcement of blended prices.

On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended prices by the differentials pursuant to § 999.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this part.

PAYMENTS FOR MILK

§ 999.60 Advance payments.

On or before the 5th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month.

§ 999.61 Final payments.

Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 999.50, as follows:

(a) On or before the 20th day after the end of each month, to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 999.63 and 999.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to the market administrator on or before the 18th day after the end of each month, or receiving from the market administrator on or before the 20th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 999.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 999.50, as shown in a statement rendered by the market administrator on or before the 15th day after the end of such month.

§ 999.62 Adjustments of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses an error in payments made pursuant to §§ 999.61(b) and 999.65, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th day of the prior month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

(b) Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 999.61(a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

§ 999.63 Butterfat differential.

Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, the amount per hundredweight determined for the corresponding month pursuant to § 904.63 of this chapter.

§ 999.64 Location differentials.

The payments to be made to producers by handlers pursuant to § 999.61(a) shall be subject to the differentials set forth in Column C of the table in § 999.42, and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located in Franklin, Hampshire, Hampden, Worcester, Middlesex, or Norfolk Counties in Massachusetts, or in the towns of Brookline, Greenville, Hinsdale, Hollis, Mason, and New Ipswich in New Hampshire, or Vernon, Vermont, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 999.40 and 999.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.

§ 999.65 Payments on outside milk and receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator as follows:

(a) Each handler operating a regulated plant at which there are assigned to Class I milk receipts of outside milk, or receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order, shall make payment as follows:

(1) On such receipts assigned pursuant to § 999.25 (l) or (m), at the difference between the price pursuant to § 999.40 and the price pursuant to § 999.41 applicable at the zone location of the unregulated plant. Receipts from each dairy farmer for other markets shall be considered as receipts from the unregulated plant to which he ordinarily delivered; and

(2) On quantities assigned pursuant to § 999.25(n) at the difference between the price pursuant to § 999.40 and the price pursuant to § 999.41 applicable at the handler's regulated plant nearest to Worcester.

(b) Each handler, except a producer-handler under any Federal order, who operates an unregulated plant from which there is Class I route disposition in the marketing area shall make payment at the difference between the price pursuant to § 999.40 and the price pursuant to § 999.41 applicable at the zone location of the handler's plant on the quantity of such disposition which is in excess of the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order, except that the same receipts of priced milk shall not be used to offset Class I route disposition in this marketing area and in any other Federal marketing area.

§ 999.66 Deductions from payments to producers.

In making payments to producers as required by §§ 999.60 and 999.61(a), the burden shall rest upon the handler making deductions from such payments to prove that each deduction is properly authorized, and properly chargeable to the producer.

§ 999.67 Adjustment of overdue accounts.

Any balance due, pursuant to §§ 999.61, 999.62 and 999.65, to or from the market administrator on the 20th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of one percent effective the 21st day of such month: *Provided*, That any remittance received by the market administrator after the 20th day of any month in an envelope which is postmarked not later than the 18th day of such month, shall be considered under this section to have been received by the 20th of the month.

§ 999.68 Statements to producers.

In making the payments to producers prescribed by § 999.61(a), each pool handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 999.61(a);

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 999.66, 999.70 and 999.71, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

MARKETING SERVICES

§ 999.70 Marketing service deduction; nonmembers of an association of producers.

In making payments to producers pursuant to § 999.61(a), each handler shall, with respect to all milk delivered by each producer other than himself during each month, except as set forth in § 999.71, deduct 3 cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, and shall, on or before the 18th day after the end of each month, pay such deductions to the market administrator. Such monies shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

§ 999.71 Marketing service deduction; members of an association of producers.

In the case of producers who are members of an association of producers which the Secretary determines is performing the services set forth in § 999.70, each handler shall, in lieu of the deductions specified in § 999.70, make such deductions from payments made pursuant to § 999.61(a) as may be authorized by such producers and pay, on or before the 20th day after the end of each month, such deductions to such associations, accompanied by a statement showing the pounds of milk delivered by each producer from whom the deduction was made.

ADMINISTRATION EXPENSE

§ 999.72 Payment of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe, and shall apply to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant and to the quantity of his route disposition in the marketing area which is subject to payments under § 999.65(b).

OBLIGATIONS

§ 999.73 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 999.80 Effective time.

The provisions of this order, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 999.81.

§ 999.81 Suspension or termination.

The Secretary may suspend or terminate this order or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 999.82 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 999.83 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 999.84 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Order[1] *Amending the Order Regulating the Handling of Milk in the Connecticut Marketing Area*

§ 1019.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Connecticut marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, to insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Connecticut marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete paragraph (c) of § 1019.1 and substitute therefor the following:

(c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I milk pursuant to § 1019.21(a), other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition: *Provided,* That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant, shall be considered as a continuation of the route(s) of the plant where such fluid milk products are packaged.

2. Delete paragraph (e) of § 1019.2 and substitute therefor the following:

(e) "Producer" means any dairy farmer (except a producer-handler under any Federal order, a dairy farmer with respect to exempt milk delivered, or a dairy farmer who is a producer under another Federal order) who produces milk which is received during the month at a pool plant, or is diverted by a pool handler from a pool plant to a nonpool plant in accordance with subparagraph (1), (2) or (3) of this paragraph, if such pool handler, in filing the report required pursuant to § 1019.30, reports such milk as received from a producer at such pool plant: *Provided,* That any dairy farmer whose milk is diverted during any month of July through March, inclusive, on more than the number of days specified shall not be considered to qualify under this paragraph with respect to any of his deliveries of milk during such month.

(1) To a nonpool plant during any month of July through September on not more than 8 days (4 days in the case of every-other-day delivery) during such month.

(2) To a nonpool plant during any month of October through March on not more than 12 days (6 days in the case of every-other-day delivery) during such month.

(3) To a nonpool plant during any month of April through June if the dairy farmer producing such milk held producer status throughout the two months immediately preceding such month and delivering all his pool milk to a pool plant(s) in the same zone location as the plant from which diversion is claimed: *Provided,* That this requirement shall not be applicable in the case of a dairy farmer whose milk is moved from the farm in a tank truck in which it is commingled with milk from other producers, the majority of which meet such requirement.

3. Delete paragraph (g) of § 1019.2 and substitute therefor the following:

(g) "Handler" means (1) any person who during the month operates a pool plant or any other plant from which fluid milk products are disposed of directly or indirectly in the marketing area, (2) any person in his capacity as a subdealer, vendor or peddler selling fluid milk products on routes from such plants, or (3) any association of producers with respect to the milk of any producer which it causes to be diverted to a nonpool plant for the account of such association under the conditions of § 1019.2(e).

3a. Insert immediately preceding the colon (:) at the end of the first proviso of § 1019.2(i) the words "and a greater proportion of fluid milk products are distributed in this marketing area on routes than in any other Federal order marketing area.

4. Insert the word "separate" immediately before the word "building" in the proviso of § 1019.3(a) and delete the words "or other milk products in finished form" as they appear in subparagraph (1) of such proviso.

5. Delete § 1019.3(c) and substitute therefor the following:

(c) "Pool plant" means (1) any receiving plant (except the plant of a producer-handler under any Federal order) from which at least 10 percent of its total receipts of milk directly from dairy farmers is disposed of during the month within the marketing area on routes and

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

not less than 50 percent of its total receipts of fluid milk products is disposed of during the month as Class I milk, unless the market administrator determines that such plant disposed of a greater porportion of its Class I milk in another Federal order marketing area on routes than was so disposed of in this marketing area;

(2) Except as provided in subdivision (i) through (iv) of this subparagraph any receiving plant (other than a plant fully regulated under the provisions of any Federal order on the basis of its route disposition) from which not less than 30 percent of its receipts of milk directly from dairy farmers is shipped during the month as fluid milk products to a pool plant qualified pursuant to subparagraph (1) of this paragraph or to a regulated plant other than a pool plant:

(i) Any plant qualifying as a pool plant pursuant to this subparagraph, other than a plant which retains automatic pool plant status for the month under subdivision (ii) or (iii) of this subparagraph, shall be a nonpool plant in any month of December through June in which it retains automatic pool plant status under another New England Federal order or in any month in which it qualifies for pooling under another Federal order on the basis of shipments which exceed the shipments qualifying such plant for pooling pursuant to this subparagraph, unless such greater shipments are made to Boston regulated plants and the plant is designated as a nonpool plant under the Boston order for such month.

(ii) Any plant which was a pool plant pursuant to this subparagraph in each of the months of July through November or which held comparable supply-type pool plant status under one or another of the New England Federal orders in each month of such period but had the greater proportion of its producer receipts pooled under this order during such period shall be a pool plant in the immediately succeeding months of December through June, unless the operator thereof gives written notice to the market administrator on or before the 16th day of any such month that the plant is a nonpool plant for such month: *Provided*, That any such plant which was a nonpool plant in any of the months of July through November and for which nonpool status is requested for any month of December through June, or any plant which was a pool plant in each of such months of July through November, but which is operated as a nonpool plant under all of the New England Federal orders in any of the months of December through June shall be a pool plant in any subsequent month of such period only if it meets the shipping requirements pursuant to this subparagraph;

(iii) Any plant which was not a pool plant under this order during each of the months of July through November but which met the pooling requirements pursuant to this subparagraph in each of such months shall be a pool plant in any of the months of December through June, if written request for pooling status is made to the market administrator on or before the 16th day of such month and such plant is not a pool plant under another Federal order in such month, except that if such plant was a nonpool plant under all of the New England orders in any of the months of December through June it shall be a pool plant in any subsequent month of such period only if it meets the shipping requirements pursuant to this subparagraph;

(iv) Any plant which was a nonpool receiving plant under all of the New England orders during any of the months of July through November shall not be a pool plant in any of the months of December through June in which it is operated by the same handler, an affiliate of the handler or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler plant.

6. Add a new paragraph (d) at the end of § 1019.3 to read as follows:

(d) "Regulated plant" means (1) any pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) in any month in which at least 50 percent of its total receipts of fluid milk products is disposed of as Class I milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes, unless the market administrator determines that such plant disposes of a greater percentage of its Class I milk in another marketing area on routes.

7. Delete paragraph (g) (2) of § 1019.4 and substitute therefor the following:

(2) Received at a pool plant in the form of packaged fluid milk products from a nonpool plant in return for which an equivalent quantity of skim milk and butterfat in the form of bulk milk is moved from a pool plant for processing and packaging during the same month, if such receipt and return occurs during an interval in which the facilities of the pool plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control.

8. Delete the word "or" immediately preceding subparagraph (3) of § 1019.4 (g) and add the word "or" immediately following subparagraph (3) together with a new subparagraph (4) as follows:

(4) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.

9. Delete paragraph (i) of § 1019.4 and substitute therefor the following:

(i) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.

9a. In § 1019.12(k) delete the words "actual or potential".

10. Delete the word "and" immediately preceding subparagraph (b) (6) of § 1019.21 and add a new subparagraph (b) (7) immediately after subparagraph (b) (6) of § 1019.21 as follows: "and (7) contained in fluid milk products lost under extraordinary circumstances completely beyond the control of the handler, if such loss is substantiated by records satisfactory to the market administrator."

11. Insert at the end of § 1019.22(b) the words "under this or any other Federal order".

11a. In § 1019.22(e) add immediately following the words "except the plant of a producer-handler" the words "under any Federal order".

12. Delete § 1019.24(b) and substitute therefor the following:

(b) Allocate skim milk in the following manner:

(1) Subtract from the pounds of skim milk in Class I milk the pounds of skim milk received during the month as exempt milk.

(2) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk received during the month in packaged fluid milk products from fully regulated plants under the provisions of another Federal order.

(3) Subtract from the total pounds of skim milk in Class II milk, the pounds of skim milk shrinkage allocated pursuant to § 1019.21(b) (5).

(4) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk the pounds of skim milk received during the month in other source milk in a form other than fluid milk products.

(5) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk in other source milk in the form of fluid milk products received during the month from other than fully regulated plants under the provisions of another Federal order.

(6) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in inventory of fluid milk products on hand at the end of the month.

(7) During the months of July through November, subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or 15 percent of the pounds of skim milk in receipts of producer milk, whichever is less.

(8) Subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from fully regulated plants under the provisions of another Federal order, whichever is less.

(9) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month.

(10) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (6) of this paragraph.

(11) Subtract from the remaining pounds of skim milk in each class beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from fully

regulated plants under the provisions of another Federal order and not assigned pursuant to subparagraph (8) of this paragraph.

(12) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (7) of this paragraph.

(13) Subtract from the remaining pounds of skim milk in each class, respectively, the skim milk received from other pool plants and assigned to such class.

(14) Add to the pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (3) of this paragraph.

(15) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in the producer milk of such handler subtract such excess (hereinafter referred to as "overage") from the remaining pounds of skim milk in each class in sequence beginning with Class II milk.

12a. Add a new paragraph (c) to § 1019.30 to read as follows:

(c) Except as provided in paragraph (b) of this section each nonpool handler shall make reports at such time and in such manner as the market administrator may prescribe.

13. Delete subparagraphs (1) and (2) of § 1019.31(a), renumber subparagraph (3) as subparagraph (4), and substitute therefor the following:

(1) Within 5 days after a producer moves from one farm to another, starts or resumes delivery to any of a handler's pool plants, or starts delivering his milk to the handler's plant by tank truck, in the case of a producer whose milk was directed to such pool plant by other than an association of producers, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries;

(2) Promptly after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, in the case of a producer whose milk was directed to such pool plant by other than an association of producers, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries;

(3) On or before the 8th day after the end of each month, with respect to other producers from whom milk was received during the month, such of the information specified in subparagraphs (1) and (2) of this paragraph as the market administrator shall request;

14. Delete § 1019.32 and substitute therefor the following:

§ 1019.32 Notices to producers.

(a) Within 7 days after the end of each sampling period for which a composite butterfat test of a producer's milk was determined, each pool handler shall give the producer written notice of such composite test.

(b) In making payments to producers prescribed in § 1019.60(a) each pool handler shall furnish each producer with a supporting statement of the information set forth in subparagraph (1) through (6) of this paragraph in such form that it may be retained by the producer: *Provided*, That in the case of producers for whom the handler makes payment to a cooperative association pursuant to § 1019.60(b), the information specified in subparagraphs (1), (2), and (5) of this paragraph shall be furnished by the handler to such cooperative association on or before the 14th day after the end of the month for which such payment is due:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of § 1019.60 (a);

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

15. Delete the language of paragraph (b) of § 1019.42 preceding the table and substitute therefor the following:

(b) The zone price differentials for each plant shall be those applicable to its zone location as shown in the table at the end of this paragraph. For purposes of applying such zone price differentials, transfers of fluid milk products in bulk between pool plants shall be first assigned to any remainder of Class II milk in the transferee plant after making the calculations prescribed in § 1019.24(b) (1) to (12) and the comparable step in § 1019.24(c), for such plant: *Provided*, That where the transferee plant is not subject to a zone price differential such remaining Class II milk shall be reduced by an amount equal to five percent of Class I utilization at such plant or remaining Class II use, whichever is less, and any amount so subtracted shall be assigned to available direct receipts of producer milk at such transferee plant and then to transferor plants in sequence beginning with the plants nearest to Hartford. The assignment of remaining Class II milk to transferor plants shall be made in sequence according to the zone price differential applicable at each plant, beginning with the plant most distant from Hartford.

15a. Insert immediately preceding the period (.) at the end of § 1019.45 the words "under any Federal order".

16. In § 1019.46(a) change the reference "§ 1019.24(b)(2)" to "§ 1019.24(b)(4)".

17. In § 1019.46(b) insert immediately following the words "other source milk" the parenthetical phrase "(other than from a regulated plant)" and change the reference "§ 1019.24(b)(3)" to "§ 1010.24(b)(5)".

18. Delete paragraph (c) of § 1019.46 and substitute therefor the following:

(c) Each pool handler who receives other source milk which is allocated to Class I pursuant to § 1019.24(b) (2) or (11) and the corresponding steps of (c), which milk is not classified and priced as Class I under the originating order, shall make payments on the volume of such milk so allocated at the difference between the Class I price and the Class II price compiled pursuant to § 1019.40 for the zone location of the plant from which such other source milk was received.

19. Delete § 1019.46(d) and substitute therefor the following:

(d) Each handler (except a producer-handler under any Federal order) operating an unregulated plant who disposes of fluid milk products in the marketing area on routes from such plant shall make payment by the 19th day of the following month at the difference between the Class I price and the Class II price computed pursuant to § 1019.40 for the zone location of his plant on the amount of such disposition (except packaged certified milk or packaged certified skim milk) which is in excess of his receipts of fluid milk products classified and priced as Class I milk under this or any other Federal order: *Provided*, That the same receipts of priced milk shall not be used to offset Class I sales in both this market and any other Federal order market.

19a. Add a new paragraph (e) to § 1019.46 to read as follows:

(e) Each handler operating a regulated plant other than a pool plant shall make payment at the difference between the Class I price and the Class II price for the zone location of his plant on the amount of his Class I utilization (other than exempt milk) which is in excess of his receipts of fluid milk products classified and priced as Class I milk under this or any other Federal order.

20. Delete § 1019.47 and substitute therefor §§ 1019.47 and 1019.48 to read as follows:

§ 1019.47 Other Federal order plants.

Any plant qualifying for pooling under this and any other Federal order and which is fully regulated under such other Federal order notwithstanding its status under this order shall be exempt from the provisions of this order except as provided in §§ 1019.30(b), 1019.33, and 1019.34.

§ 1019.48 Pooling provisions for the period from the effective date of this amending order through June 1961.

During the period from the effective date of this amending order through

June 1961 all of the conditions of pooling (plant and producer) applicable to the period July through November shall be considered to have been met if such conditions are met for the period from the effective date of this amending order through November 1960.

21. In § 1019.50(c) change the reference "§ 1019.24(b) (12)" to "§ 1019.24(b) (15)".

22. Delete paragraph (d) of § 1019.50 and substitute therefor the following:

(d) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent quantity of skim milk and butterfat respectively, was allocated to Class II in the preceding month, by the hundredweight of skim milk and butterfat respectively, subtracted from Class I milk pursuant to § 1019.24 (b)(9) and (c) for the month which is in excess of the hundredweight of skim milk and butterfat respectively, allocated to Class II milk pursuant to § 1019.24 (b)(11) and (c) during the preceding month and classified and priced as Class I under the provisions of another Federal order.

23. Delete the words "following that" as they appear near the end of § 1019.67.

24. Delete § 1019.68 and substitute therefor the following:

§ 1019.68 Adjustment of overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1019.46, 1019.65, 1019.69, and 1019.70 shall be increased one-half of one percent effective the 22d day of such month and on the 22d day of each month thereafter until such obligation is paid.

[F.R. Doc. 60-7612; Filed, Aug. 15, 1960; 8:45 a.m.]